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ABSTRACT

Forty-four representatives of American Indian tribes and the state of Arizona participated in the 2-day conference on reservation school districts. Terrance Leonard explained the legislative history and workings of Johnson-O'Malley funding, described supplementary Johnson-O'Malley programs, and commented on the Indian Education Act. Dr. Kenneth Ross traced the history of federal legislation regarding Indian tribes and groups, with emphasis on PL 95-561, its 15 Titles, and how each Title affects Indian school districts. He also explained Title X in relation to the Impact Aid Law. Carolyn Warner, Superintendent of Public Instruction, submitted a statement regarding how state aid is determined. Wayne Pratt explained Title XI Parts A, B, and C in detail. David Rich gave an overview of significant opinions on education from the Arizona Attorney General's office and explained how to obtain opinions. Arizona State Senator Arthur Hubbard explained the state's legislative process and how to contribute to legislative decision-making. Wesley Bonito urged that Arizona Indian organizations and tribal leaders support local control of education, and commented on the 1980 Census, the proposed "Sunset Legislation," and the need for a clearinghouse for Indian education information. Representatives from several tribes gave their reactions and views on Indian education. (SB)

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ARIZONA COMMISSION OF INDIAN AFFAIRS

"Reservation School Districts"

REPORT

of

The 6th Annual

Indian Town Hall

held at Sunrise Park Hotel

White Mountain Apache Reservation

December 6 - 7, 1978

RC012787

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F O R E W O R D

The Arizona Commission of Indian Affairs was established by the Arizona Legislature in 1953 and is operative under Arizona Revised Statutes Article 4, Titles 41-541 and 41-542 as amended July 15, 1964 and April 17, 1974.

A very important area of our responsibility has been to improve communications, understanding and working relationships between all concerned and we have diligently been working to that extent.

The Commission has successfully sponsored six Annual Indian Town Hall Conferences. The topics of discussion were: "Arizona Indian Water Rights", "Sovereignty & Inter-Governmental Relations with Arizona Indian Tribes", "P.L. 93-638 Indian Self-Determination and Education Assistance Act (Area of Contracting)", "Tribal Water Rights: Today's Concern" and "Reservation School Districts".

The success of the conferences has been in the participants achieving a mutual and beneficial understanding as to the Indian and non-Indian point of view relative to a specific topic.

Hopefully, the information contained in this report on "Reservation School Districts" will enable the reader to better understand the viewpoints of all citizens of this State relative to the crucial subject of Indian Education.

The Commission would like to express its appreciation to all those that came through the snow storm to participate and attend the Annual Indian Town Hall.

Sincerely,

LEONA M. KAKAR - Chairperson

CLINTON M. PATTEA
Executive Secretary

LMK:CMP:DD/ras
April 5, 1979

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ARIZONA COMMISSION OF INDIAN AFFAIRS
6th ANNUAL INDIAN TOWN HALL

A G E N D A

"RESERVATION SCHOOL DISTRICTS"

PLACE: SUNRISE PARK HOTEL
WHITE MOUNTAIN APACHE RESERVATION

DECEMBER 5, 1978	REGISTRATION 6:00 - 9:00 P.M. Hotel Lobby
	Welcoming Hostess: Mrs. Leona Kakar, Commission Chairperson
DECEMBER 6 (Wednesday)	
	Master of Ceremonies: Mr. Clinton Pattea, Executive Secretary
9:00 A.M.	Meeting called to order - Chairperson Kakar Invocation - Miss Karen Adley, Miss Fort Apache Welcoming Remarks - Mr. Ronnie Lupe, White Mountain Apache Chairman Opening Remarks - Miss Theodora Lavender, Miss Indian Arizona
9:30 - 10:00 A.M.	"Johnson-O'Malley and Indian Education Act of 1975" Mr. Terrance Leonard, Director, Division of Indian Education, State Department of Public Instruction
10:00 - 10:30	"Congressional Intent of Indian Education" Mr. James DeHaas, Education Facilitator, Phoenix Union High School District
10:30 - 11:00	"Federal Funds for Indian Children P.L. 874 and P.L. 815" Dr. Kenneth Ross, Superintendent, Window Rock Elementary District #8
11:00 - 12:00	"Historical Perspective of Indian Education" Dr. Vine Deloria, Jr., Guest Lecturer, Department of Political Science, University of Arizona
12:30 - 2:00 P.M.	(M. C. - Mr. Pete Homer, Sr., Commission Vice-Chairman) Luncheon Speaker: The Honorable Arthur Hubbard Arizona State Senator "What is the Process for Developing Law Relative to State Education"
2:00 - 3:00	(M. C. - Mr. Alvin Dashee, Commission Member) "Impact of House Resolution 15 (Public Law 95-561)" Mr. Wayne Pratt, National Indian Training & Research Center
3:00 - 4:00	"Attorney General Opinions on Education" Mr. David Rich, Assistant Attorney General

(CONTINUATION)

4:00 - 4:30 P.M.	*"Impact of Indian Organizations on State Education"* *Mr. Wesley Bonito, President, Arizona Indian Education Association*
4:30 - 6:30	*Recess*
5:30 - 6:00	*Entertainment: White Mountain Apache JOM Drama Program* *Place: Hotel Lobby*
6:30 - 9:00	*Banquet* *Introductions by Chairperson Ms. Leona Kakar* *(Master of Ceremonies - Mr. Wilfred Whatoname, Commission Member)* *Banquet Guest Speaker: Ms. Veronica Murdock, President National Congress of American Indians*

DECEMBER 7 (Thursday)

9:00 A.M.	*Meeting called to order with Brief Remarks by Chairperson Leona Kakar* *(M. C. Mr. Clinton Pattea, Executive Secretary)*
	TRIBAL REACTION AND VIEWS ON INDIAN EDUCATION:
	Ak-Chin - Mr. Wilbert Carlyle, Chairman *Camp Verde - Mr. Theodore Smith, Chairman* *Cocopah - Mr. Robert Sam Barley, Chairman* *Colorado River - Mr. Franklin McCabe, Chairman* *Fort Apache - Mr. Ronnie Lupe, Chairman* *Fort McDowell - Mr. Tom Jones, Vice-President* *Fort Mojave - Mr. Llewellyn Barrackman, Chairman* *Fort Yuma - Mr. Henry Montague, President* *Gila River - Mr. Alexander Lewis, Sr., Governor* *Hopi - Mr. Abbott Sekaquaptewa, Chairman* *Havasupai - Mr. Wayne Sinyella, Chairman* *Hualapai - Mr. Earl Havatone, Chairman* *Kaibab-Paiute - Mr. Bill Tom, Chairman* *Navajo - Mr. Peter MacDonald, Chairman* *Papago - Mr. Cecil Williams, Chairman* *Payson Tonto Apaches - Mr. Melton Campbell, Chairman* *Salt River - Mr. Gerald Anton, President* *San Carlos - Dr. Ned Anderson, Chairman* *Yavapai-Prescott - Mrs. Patricia McGee, President*
12:30 P.M.	*Luncheon* *(M. C. Mr. Wilfred Whatoname, Commission Member)* *"Summary and Recommendations"* *Mr. Earl Havatone, Chairman, Hualapai Tribe*
2:00 P.M.	*Adjournment*

ARIZONA COMMISSION OF INDIAN AFFAIRS

6TH ANNUAL INDIAN TOWN HALL
RESERVATION SCHOOL DISTRICTS

PLACE: Sunrise Park Hotel
White Mountain Apache Reservation

December 6 - 7, 1978

COMMISSION MEMBERS PRESENT:

Leona Kakar, Chairperson
Pete Homer, Sr., Vice Chairman
Wilfred Whatoname
Terrance Leonard (Dept. of Public Instruction)
David Rich, Assistant Attorney General

MEMBERS ABSENT:

Edmund Thompson
Leo Denetsone
Alvin Dashee
Lambert Noline
Ms. Yvonne Lynne Garrett
Sister Mary Rose Christy
Bruce Babbitt, Governor
Dr. Donald Tatro (Dept. of Health Services)

DECEMBER 6th (Wednesday)

The Commission's Chairperson Leona Kakar cordially welcomed those in attendance and stated that because of the bad weather conditions, attendance probably would not be what had been planned. The Moderator Mr. Clinton Pattea was introduced.

Mr. Pattea again welcomed everyone and acknowledged the Tribal leaders. The topic to be discussed was a concern expressed by a number of Tribes in the state. We have approximately 7 or 8 school districts within a reservation, and the problem has been with financing.

Mr. Pattea went on to say that we had a number of committments, approximately 100 people who said they would attend the Conference, however, we've had calls yesterday and this morning that they are all trying to make it here. The Chairman of the White Mountain Apache Tribe who is about 20 miles west of here at Hondah called and is having a hard time getting here.

Mr. Pattea introduced Mr. Altaha, a member of the White Mountain Apache Tribe.

MR. LAFE ALTAHA, COUNCIL MEMBER, WHITE MOUNTAIN APACHE TRIBE - "WELCOMING REMARKS":

Thank you, Mr. Pattea.

We welcome all of you and we hope you will enjoy your stay here and that you will return again.

My name is Lafe Altaha, member of the Council, and also Assistant Director for Game and Fish. On behalf of my tribe I again would like to welcome you to the Sunrise Ski area in the White Mountains, and I'm happy to take part in this Indian Town Hall meeting. I am a NFHEW and also on the Law and Order Committee and I have my own ideas of Indian education.

You know, so many times the Federal and State governments appropriate money for programs, such as the federally-allocated moneys to preserve what they call "endangered species of animals". It so happens that on my right, about 20 miles due south of here, there's a lake called Christmas Tree Lake, and in that lake you will find nothing but Apache trout, and the Feds spent all kinds of money to protect those endangered species. But thay have failed to come through with funding for our Indian tribes, the American Indian, for education, housing, etc. I think it is about time we get our share of money from the State and Federal Governments so we can educate our Indian kids the right way. We need these young people--they will be our future leaders tomorrow, and today we are being challenged from all sides. We are being taken to court for our water rights, lease-hold tax, you name it. It's a game, and if we are to win this game, we must do it through the courts. How do we fight it in court? We must educate our people to become lawyers, doctors, teachers, as I think this is the name of the game. In the years past, the battle has been done on horseback with guns, but that is past and we cannot go back.

If we are going to protect our rights, we must do it in court, and this is the philosophy of the White Mountain Apache. Our HEW Committee has problems with our younger kids, drop-outs, drinking among the young people, and I feel our battlefront is in Whiteriver. It is good to attend a meeting like this, but yet I see meetings in Minneapolis, and all over, but I do not think we can win this battle by attending meetings. Our battlefront, like I said, is on our own Indian reservation. We must do it at home with the parents, the teachers, and also with the Tribal leaders. We must all work together in order to overcome our problems. I think this is the reason why we are gathered here.

I see some distinguished guests here and it is good to be among friends once again, and I only wish the weather would be much better, but I feel as the day goes on, we will have more people coming. I understand that Mr. Lupe called in; he is snowbound, also our Committees and Queens--they're somewhere down the road. I came up this

morning.

I have been thinking and this is a very serious thing that we are going to be talking about in the next couple of days. I was denied education. Why? Because my parents didn't think at that time that education was important. We had some cattle. I still have some cattle today. They thought that was enough, and they were wrong. Back in those days we did not have programs like NYC and Job-Training Programs. We came from a poor family, yet I was fortunate enough to go to a government school at Fort Apache, later on to Phoenix Indian School. I appreciate that we had some good teachers, as we all learned, and I think we learned good, because what they taught us back there we are using it in our recreation enterprise.

Our rights are being challenged--our hunting and fishing rights. It is in Court today, down in Phoenix, the Tribe vs. State. We feel that what we have up here, the timber, the water, the wild game--it belongs to the Tribe, and we will continue to treat it as such. We need to get this thing settled in court. That is the reason why we need you, you people that work in the State offices, BIA offices, whatever your job--let's all come together and help one another with our various problems. Education is real important. I stress this to our Indian students as I travel all over, and even at home I tell them that we must fashion our lives, mold ourselves to be better educated. This is the name of the game--education. Without it I don't know how we can survive. If we are going into the 21st Century, we need some kind of mechanism, and I think that vehicle is education, my friends. Thank you.

CLINTON PATTEA, EXECUTIVE SECRETARY, ARIZONA COMMISSION OF INDIAN AFFAIRS:

Thank you, Mr. Altaha.

At this time I would like to introduce our Commission members although they are not all present today. We have with us Mrs. Leona Kakar, the Chairperson, who represents the Ak-Chin Indian Community, and I believe this is the first time we have ever had a female as Chairperson of the Commission. Within the last 5 years, I think, women have been appointed to the Commission, and this is the first year that we have had a woman as the Chairperson. So we're honored to have her with us and hopefully she will serve 3 years. (Commission members serve three years and they are appointed by the Governor; there are seven Indians on the Commission.) Our Vice-Chairman is Mr. Pete Homer, Sr., and he represents the Colorado River Tribe. Then we have Mr. Wilfred Whatoname representing the Hualapai Tribe. Then we have Mr. Edmund Thompson who represents the Gila River Indian Community--he's not with us today. Then there is Mr. Leo Denetsone representing the Navajo Tribe, (he called and said he had other commitments that would take him out-of-state, so he would be unable to attend). Then Mr. Alvin Dashee represents the Hopi Tribe,

(whether he is on his way or snowbound, we haven't heard). Mr. Lambert Noline represents the San Carlos Apache Tribe, and he said he had other commitments so he couldn't be with us today. Those are the Indian members on the Commission.

Then we have two non-Indian members-at-large who are also appointed. Ms. Yvonne Garrett, who lives in Phoenix, and Sister Mary Rose Christy, who also is from the Phoenix area. The other members are Ex-officio: Governor Bruce Babbitt, the Attorney General, John LaSota, the Superintendent of Public School Instruction, Carolyn Warner, and the Director of Health Services, Dr. Suzanne Dandoy. This is the make-up of the Commission of Indian Affairs.

Getting down to the Agenda for today, we have had to make some adjustments, so as we proceed, hopefully some of the others will be able to make it through the snow. As earlier mentioned, Mr. Ronnie Lupe, Chairman of White Mountain Apache Tribe, and Miss Fort Apache and Miss Indian Arizona, who also reside at Whiteriver, are unable to get through so they will not be with us but hopefully they will be able to come this evening or tomorrow morning.

Mr. James DeHaas has not checked in yet so we will proceed with Dr. Kenneth Ross, and Mr. Terry Leonard is here. And we hope that Dr. Vine Deloria, Jr., from the University of Arizona, will make it by 11:00 o'clock. Mr. Wayne Pratt, who is from Tempe, Arizona, may not come because of the rain and the snow. I understand it was raining quite heavily in the Phoenix area this morning, so he might not be able to be with us. Mr. David Rich, representing the Attorney General, is also here. Mr. Wesley Bonito from Whiteriver said if it takes him all day he will be here. There will be some Agenda changes. Our first speaker will be Mr. Terry Leonard, Director of Indian Education.

MR. TERRANCE LEONARD, DIRECTOR, DIVISION OF INDIAN EDUCATION, STATE DEPARTMENT OF PUBLIC INSTRUCTION: "JOHNSON-O'MALLEY AND INDIAN EDUCATION ACT OF 1975"

Good morning, and thank you everybody for coming here.

About a year ago we started talking with the Indian Commission about focusing our Agenda on education. At that time we said well, education is such a broad field, we should narrow it down to something we can handle. We have such things as Johnson-O'Malley, Title IV - Indian Education Act, State Aid, Federal Impact Aid, new Laws and so forth. We finally arrived at this Agenda to discuss State Aid to Reservation School Districts. Some of our superintendents have had some problems over the years, as it is a very complicated process. Hopefully as we go through the Agenda you'll get at least an idea of what goes on in computing State Aid, and in obtaining and using Federal funds.

This morning I want to talk to you about a program that I work with; it is called Johnson-O'Malley. Many people have always said "Who the heck is Johnson-O'Malley? Who is he connected with?" Last week I was in Kingman, and heard a joke about the program. Somehow, something happened to a van which was confiscated; it was in the police department and they had taken all the kids with them. The patrolman asked the kids "Who does this van belong to?" The kids answered, "It belongs to Mr. Johnson-O'Malley." The policeman asked them "Where does he live?" They said, "I think he lives in Phoenix." So everybody gets in a laugh about Johnson-O'Malley sometimes.

To give you an idea what happens in the State Department, we contract with the Bureau of Indian Affairs under ARS 15-1161 to provide for educational services with Federal funds. Since 1939 we've had this office. Since 1973 we have had an office that through the wishes of Indian people has employed Indians to work with the program, the school districts and Indian tribes. I came aboard in 1973, and since then we have had two major changes in Federal regulations dealing with Johnson-O'Malley. Prior to that time, we worked with Johnson-O'Malley in terms of what we called "unmet financial needs". Prior to that we also provided Johnson-O'Malley funds for several other instances. One of them which you may have heard about recently is what we call the Bordertown Program.

My counterpart was supposed to be up here, but he is in Phoenix working with the National BIA Conference on H.R. 15. He came from Minnesota, and he said the only reason why he took this job, was because he thought it was pretty good when you have what is called a Bordertown Program. He probably was thinking of places like Nogales, San Luis, and places like that, and what we are actually talking about are Flagstaff, Winslow, Holbrook and Snowflake. The Bordertown Program if you have been up with the newspapers, is that four Districts have mandated that if the Bureau does not provide any assurances by Dec. 15th, students will not be accepted back into the Dormitory program. These are out-of-the-District students. I'll get into that more specifically later on.

At that time Johnson-O'Malley dealt with what we call "unmet financial needs" for public schools located on or near Indian reservations. We had at that time classified them as major and minor impact districts. The major impact district provided a budget submitted to the State Department - the State Department in turn with the State Board of Education contracted with the Bureau for those funds "unmet financial needs". Then in 1975 the regulations changed. 25 C.F.R. changed to provide for supplementary programs, what we call categorical aid, and these supplementary programs are for such things as Cultural Enrichment Programs, Indian Heritage Study Programs, Parental Costs. The idea about Parental Cost is not well accepted in many places because it is unique. Parental Cost came about in terms of what is needed (out-of-pocket expense) to keep students in school. Many of you may have heard recently, what we call the Hyatt-Regency Syndrome. This happened at the Hyatt-Regency where the Phoenix Union

District decided to honor some students by having a banquet and a dance. This will come along later too--I'll get into that.

Supplementary programs were unique in 1975, then we changed the rules and regulations to provide another important thing, that being more involvement of parents. During the period of 1975 to 1976, we had a thing called S.B. 17 which eventually became Public Law 93-638. During the first change of regulations (C.F.R. 33) we called them the red regulations because it was a unique change from the total regulations on Johnson-O'Malley; changing from deficit needs to supplementary programs. Again, the intent was to provide for unique and special educational needs of Indian children. Then as we changed regulations, we also changed the State plan. The main requirement in the Johnson-O'Malley contract is to have the State educational plan or an educational plan itself. We provided in the State plan itself for such services as textbooks, cost of enrichment classes, field trips, and of course, parental involvement.

In 1976 the regulations changed again because of P.L. 93-638.

At this point, I'd like to go back and go through what Johnson-O'Malley is all about. In 1920 Congress appropriated certain funds to the Indian Service under the Synder Act--the funds were allocated to the Indian Service to provide 5 basic areas: Social Services, Agriculture, Education, Relief of Distress and Health Services. These 5 items were to be provided by the Indian Service. With certain changes between 1928 and 1930 and again in 1934 the Johnson O'Malley Act came into existence to allow the Indian Service and the Bureau of Indian Affairs to contract services out of States and territories to provide for the same services. In 1936 that was expanded to include universities, corporations and colleges of said states to provide services. Such services for example as the Agricultural Extension Service here at Arizona State University for all the di[illegible]nt irrigation districts we have: Parker, Colorado River, Sal[illegible], Gila River and Ak-Chin. All of these had some set of con[illegible] through the Bureau for Agricultural Services. At that point [illegible]nad Johnson-O'Malley providing funds to the State for public school districts, again unmet financial needs. In 1959 the Federal Impact Law was changed to include Indian education or Indian reservations; at this point, we were providing Johnson-O'Malley funds to a school district for the presence of non-taxable Indian lands. Due to a change in the Federal Impact Law, the new taxes were taken over by P. L. 874, and there was a change in attitude of people across the nation to provide Johnson-O'Malley programs for more social and unique education programs for Indian children.

Then, of course, in 1975 we changed again--one more amendment to the Johnson-O'Malley Law, and that was to include Indian Tribes for those contractural services.

P.L. 93-638 has two titles. Title I, deals with contractural services with Indian tribes, Title II amends the Johnson-O'Malley

Law to include Indian parents of students being served who shall approve or disapprove all programs under this contract. It also provides where you have the participation of non-eligible Indian children, the funds should be pro-rated to cover only the Indian children. Subsequent rules and regulations further provide that where the parents decide to provide services for the non-eligibles they can do so.

At this point, we get into the law itself, P.L. 93-638, providing for the imput of parental control to approve or disapprove.

Yesterday I went to a meeting in Flagstaff, and the week before I went to Kingman to explain the rules of the Parent Committee. This is a very unique role that in talking about the Hyatt-Regency events, because the Hyatt-Regency bash was a JOM bash. The Bureau provided that the parents have discretional authority to determine how education funds are to be used in the Johnson-O'Malley contract. In so doing, they have found that the expenditures at the Hyatt-Regency were not improper, with the intent of the Johnson-O'Malley law. In fact, it did not violate any regulations. The law itself provides that the original proposal shall be approved by the parents, and no changes shall be made unless with prior written approval of the Parent Indian Education Committee. This is a very unique authority. The regulations further provide that if the contractor, whether it be the State, Tribe, School District or Indian Corporation fails to allow the Parent Education Committee to function, that Committee can write directly to the Commissioner and have that contract cancelled, revoked or suspended. Another unique authority of the Parent Committee. In that exercise of authority we come up with many, many different obstacles--one of them is attendance at Parent Committee meetings. We have very low attendance because of the times which we have the meetings. But you will find, as I have found across the State--the interest is very strong and is growing. Often, I go out and explain the rules and regulations to the Committee--their ideas are long range, educational-wise.

We also have as an obstacle, a thing called parental cost. These items again are not well established throughout the United States as to how parental costs are to be used.

When we determine the eligibility of a school district or a Tribe, we determine the number of eligible Indian children we have. The eligibility criteria for Johnson-O'Malley is one-quarter or more degree of Indian blood or a member of the Tribe, recognized by the Secretary of Interior as being eligible for Bureau services. Comparable to the other programs, we work with Title IV - Indian Education Act, which is funded through a separate Agency, HEW. Eligibility extends to the 1st and 2nd degree of any present member or person. It is broader, more unique eligibility criteria. Next year FY 1980 will be including the Yaqui students. Many people will get a little concerned about it, as they will think we are going to include Yaquis across the board. It is not so. The law for the Pascua-Yaqui Association provides that any member of that association is recognized by the Secretary of the Interior and

is recognized by the State Department and for certain services. So the eligibility for the Yaqui students would be extended only to those members who are members of the Association, the Pascua-Yaqui Association in Tucson. It would not extend eligibility across the board to all Yaqui people.

The eligibility is a very unique type of deal where we have to determine if the students are eligible students. We have to determine if the person has a Tribal number, if he has a Tribal I.D., or if he is registered with an Agency. We keep these in a separate form and many districts are now using the forms that we have developed to determine the eligibility criteria. We then compile the total eligibility criteria and submit it to the Bureau as to the number of eligible students we plan to serve within that contract year. In years it has come from 21,000 down to 13,000. The reason is that we have two contracts in the State of Arizona, one contract, I should say two contracting areas--one to the Phoenix area office of the Bureau of Indian Affairs, the other to the Navajo area office, who in turn, contracts with the Navajo Tribe and sub-contracts to the school districts. Under the Phoenix contract, we have the State contract which deals with this part of education and several other Indian Tribal contracts--the White Mountain Apache Tribe, Papago, Colorado River, Salt River, and I believe, San Carlos, this year. Inasmuch as they go by the same rules and regulations they must also deal with public school districts and State laws. I brought a copy of this and I don't intend to read it, but this is the law that we operate under. It is the Title IV - Education Law for the State of Arizona. We also deal with essentially the State's Boards rules and regulations. But in dealing with this, we find that whenever a school district receives funds from Johnson-O'Malley or through Johnson-O'Malley under a Tribal contract, we still must get some type of State Board approval.

You recall earlier this morning, I mentioned we must have a State plan. Well, we are developing another plan, called the 638 Plan, and this plan will allow a blanket coverage for a school district to receive funds under a Tribal contract, and this will include all the Tribes we mentioned plus the Navajo District. The 638 Plan will be reviewed by the Department of Education. It, in a sense, will allow the districts to receive and expend funds from Tribes whether it is from Johnson-O'Malley or any other source. So we will be having two State plans in Johnson-O'Malley.

The other thing, and like everybody else, my people are on their way--I hope they will be here sometime between now and tomorrow, as they are bringing extra copies of the Johnson-O'Malley Rules and Regulations, and the Act itself dealing with the educational portion of 638. I have copies coming of our Johnson-O'Malley State Plan, a plan that we plan to distribute and extend Johnson-O'Malley contractual funds.

We have approximately, at this point, 70 projects in our office dealing with Johnson-O'Malley supplementary programs. They range

from Cultural Enrichment Classes, Tutor-Counselors, Field Trips, so on and so forth. We had an experience the other day. Again my counterpart came into my office, Mr. Jim Lawrence from the Bureau, and said that Senator Goldwater just called Artichoker, and he wants to know if it is true that the Maricopeans are sending some kids to Hawaii on JOM funds. So we called Ak-Chin to find out for sure, and they said "Yes, we are, but we are sending them on Tribal funds." We just sat back and breathed easy for a little while. Then we remembered in one of the projects there was another provision for some kind of educational trip. We went through the files and found one such trip, and this was the Colorado River people. They sent two kids on a European tour, and this was just after the Hyatt, and we said we'd better cool it, call the Tribal Council and have them cancel the trip, and we went through and explained our dilemnas. Needless to say, they laughed at us and said, "well you're too late--they're already in Rome." Again it was a very unique type of program for the students and they actually gained credit. It was a classroom type of experience which we thought was justifiable. So next year, I suppose many people will be going places unknown.

I mentioned earlier that one of the functions of our office is to provide technical assistance to people who would be most affected by it, and this would be the Parent Committee. I have and I suppose many of you have been to many meetings where you personally get up and read the rules and regulations. It becomes very tiring sometimes and especially when you deal with Parent Committees where they don't have the experience to work with Federal rules and regulations right from the beginning. So one of the things that we try to do, is to minimize the impact of regulations by offering various techniques. And one of the techniques that is offered is what we call our JOM Coloring Book. It is a series of illustrations and sketches which takes the rules and regulations and puts them into cartoon form where we can best explain them as it pertains to the Parent Committee. Many think that this is unique, and we have used it many times over the years, and it has worked with Parent Committees coming right on board. But the thing that I am trying to express here, is that we have to provide all types of experiences and technical assistance that Parent Committees can get a grasp of how we implement Johnson-O'Malley as it is today. And again it is a very complicated program, at least in our program where we deal with State Law, the Attorney General's people and the Auditor General's Office. We deal with the Bureau's rules and regulations, we deal with Bureau manuals, with the contract team for Procurement Regulations, and so on and so forth. At the same time, we deal with our own internal financial record system, USFR. Taking all that and mashing it into one little package called State Plan--we try to implement as many programs and as many experiences as possible.

Later on today, we will be talking about the system of State Aid, the way it works and how it was developed, and hopefully if you have any questions I will be here to answer any questions, because we are in another stage of developing rules and regulations and this is what we call H.R. 15. Again, as soon as our handouts arrive, they will

explain the latest on H.R. 15, and its many impacts. One of the impacts it would have on the Johnson-O'Malley Program, is that it now provides for the development formula for allocation of funds based on the State average pupil expenditure.

I mentioned earlier about the dormitory situation and what is happening now. Tomorrow, I believe, the Bureau people will be meeting with the Department of Education to find some way to resolve this issue. What it is in effect is that the dormitory program at Flagstaff, Holbrook, Winslow and Snowflake has been receiving students from out-of-district that are residing in the federal dormitories and attending the public schools. The agreement is, and this resulted after the end of what we call a 20-year agreement in 1975, at which time or prior to that the Bureau paid the full cost of those students attending the school, the full tutional cost. At this point, the agreement is that the district where the student lives will pay the district where the student attends, P.L. 874 funds they receive plus State Aid, and the difference between the cost of education in the district of attendance would be paid from Johnson-O'Malley funds. But at this point, the Bureau has ruled that this is no longer allowable. At this point the school district attended receiving out-of-district students have determined that unless the Bureau revises this decision, they will no longer accept students after December 15th, who are out-of-district, and the reason of course, is that the amount of money involved would be very very high. So this is what the dormitory program is facing right now.

To explain the total dormitory program as it is today, takes much longer than what I am allowed, so hopefully if you have questions, I will be available to answer them. It is a very unique program, a very complicated one, and sometimes a very enrichment type because it provides many experiences such as I just learned about the Kingman bus thing. We have JOM vans and JOM buses all over the place that we lease out; we have people wearing JOM T-shirts; everybody has some kind of unique deal. One time we were coming from Kingman back to Peach Springs; this happened to be at Peach Springs. We were always arguing with the Bureau saying, you know, that we use JOM money for the special unique educational needs of Indian children. They are always saying that all you are using the money for is to buy JOM tennis shoes. Now that will never happen! But one day back in Peach Springs we stopped at the JOM office, and lo, and behold, there were about 60 boxes of JOM tennis shoes there! I hoped they all used them. But again it comes back to parental discretion--what they provide through the program.

The other part of my talk today deals with the Indian Education Act called Title IV. H.R. 15 also extended the authorization of Title IV to another 5 years. What Title IV does in effect, is merely the same thing as Johnson-O'Malley, only its a different source of money. Title IV has various parts to it. Part A deals

with Public Schools; part B deals with Public Schools but also with Indian tribes, authorizations, and so on.

I am more familiar with part A dealing in terms of eligibility. We have to receive an eligibility list from every district on or before Nov. 15th of this year, which we submit to the Office of Education, who in turn uses those numbers to distribute an eligibility list of how much the district can expect to receive for the number of students they have in that district, who are eligible for Title IV. The role that our Office plays with these two, is to see that the school eligibility list certifies that a list of students has been prepared and submitted to the Office of Education, and as the districts are funded, we then take the program to the State Board of Education to allow them to receive funds pursuant to their State Board's approval under AR 15-1141. Other than that, we deal primarily with them on the educational committee basis providing technical assistance, providing other program sources so that the programs can operate if it's to comply with regulations, and also there are programs where we have "JOM Title IV Programs" operating. They are in the same district and sometimes where they supplement each other.

But that's the extent of my presentation this morning in the area of Johnson-O'Malley in a thumb-shell. It is a very unique program and a very complicated one as mentioned earlier, and it tends to get some recognition from time to time like the Hyatt-Regency, but we feel very confident in working with parents that they will make the right choices under this program. So with that, Madam Chairman, Commissioners and Guests, I will retire for the morning. Thank you very much!

MR. CLINTON PATTEA, MODERATOR, INTRODUCED DR. KENNETH ROSS, SUPERINTENDENT, WINDOW ROCK SCHOOL DISTRICT #8: "FEDERAL FUNDS FOR INDIAN CHILDREN P.L. 874 AND P.L. 815"

Mrs. Kakar, Mr. Pattea, it is indeed a pleasure for me to address this audience today. I have a number of handouts for you because everything that I am going to touch on in relation to Federal Impact Aid, Public Laws 874 and 815 in particular, is included in the packet of materials, and so let me distribute them and we can start by following the handout format.

As you will see in reviewing the manuscript before you, basically the paper was prepared for the express purpose of acquainting Indian tribes in Arizona, tribal chairmen, tribal educational personnel within the tribes, and school districts affected in relation to serving the needs of Indian students on Indian reservations. Regarding Impact Aid, primarily P.L. 815 and 874, mention has been made this morning of House Resolution 15. House Resolution 15 was a bill that put together by the United States House of Representatives which included a number of ideas and concepts regarding the education of Indian children in

public schools and in contract schools as well as within the Bureau of Indian Affairs educational system. That particular piece of legislation, or proposed legislation, was passed by the House and sent over to the Senate. The Senate did not have a comparable bill to discuss, and so what the Senate did was review the concepts that the House of Representatives had passed, and make a number of changes. Due to variances in the House and Senate positions, a joint conference committee was required to iron out a commonly acceptable position in relation to the final law as it is being published.

One of the things we took the liberty of doing is tracing briefly the history of federal legislation as it deals with Indian tribes and Indian groups. If you will look on page 2, there is a Brief Legislative Review of Federal Educational Assistance primarily for Indians. As far back as 1802, there was an Act authorizing the expenditure or a sum not to exceed $15,000 per annum to promote civilization among the Aborigines. Among all the legislative trends that permeated Congress in 1819 there was another Act establishing the sum of $19,000 to prevent "the further decline and final extinction of the Indian tribes" by introducing among them "habits and arts of civilization."

In 1870, an Act set aside $1,000,000 for the education of Indian people.

In 1882, an Act provided that abandoned military posts be turned over to the Department of the Interior for conducting therein Indian schools.

In 1897, an Appropriation for Indian Services provided for an appropriation for the education of Indian children in sectarian schools.

In 1918, a Legislative Act settled the policy disputes regarding whether the federal government could make appropriation for the education of children in sectarian schools.

Then we get into the area that Mr. Leonard spoke of this morning--the Snyder Act of 1921. The Snyder Act authorized the Bureau of Indian Affairs to direct and supervise and expend such funds as appropriated by Congress for land management, welfare, and education of Indians. That Act is the primary basis for all the operations of the Bureau of Indian Affairs school system; that is the authority by which money is appropriated for the operation of BIA schools.

In 1934, the Indian Reorganization Act was passed to provide for Indian Vocational programs and Indian Higher Education programs.

Also, in 1934 Congress passed the Johnson-O'Malley Act. The primary purpose of the Johnson-O'Malley Act was to provide federal assistance to the states to support activities related to health,

education and welfare (including the relief of distress) of Indian people.

In 1936, the Johnson-O'Malley Act was amended to provide for contracting to sub-divisions of states, universities, colleges, individual public schools or local education agencies, or appropriate state or private corporations. One interesting thing about the Johnson-O'Malley Act is that it was the first federal law of its kind consumated by Congress for any ethnic group in the United States. It went through on its merits as an Indian bill exclusively. Up until quite recently there has been no other major legislation along those same lines as far as education of Indians in public schools is concerned.

The other interesting thing about the Johnson-O'Malley authority is that it has no expiration date attached to the authorization. We are going to be getting into how Congress establishes legislation or the authority for creating programs that puts constraints on them such as in the Impact Aid and Title IV areas. With these, we have a five-year extension, and that's it, then we have to fight the reauthorization battle all over again.

In 1941, the Lanham Act provided for educational assistance for schools in communities affected by the Federal Government's activities.

In 1950 the Navajo-Hopi Rehabilitation Act allowed funds for school construction and "bordertown" dormitories to permit Navajo and Hopi children to attend public schools.

When we talk about today's topic, Impact Aid 874-815, it wasn't until 1950 that Congress realized that there was financial assistance needed by communities affected by Federal Government activities for the construction and operation of schools. It is interesting to note on the back page of the hand-out the diagram that illustrates what happens to financial resources in a school district. You look back at 1934-36, the Johnson-O'Malley law was the legislative authority to provide assistance to public schools, through contracting. The Bureau of Indian Affairs, under the Interior Department, is the administrative agency responsible for carrying out that program. Initially, the monies were for making up the unmet financial needs of the school district. Schools were funded primarily through three resources at that time: State Aid, local taxes, and Johnson-O'Malley. You have to provide the teachers, you have to provide the electricity, the heat, the transportation, all the services. You add it up in the expenditure column--this is what it costs to run your school district. On the other side of the coin you look and say, "What are the resources that I need in order to put this system together?" You look to see how much money you were going to get from State Aid, how much could we realistically tax our taxpayers, and then whatever we couldn't come up with--Johnson-O'Malley from 1934 to 1972 made up the difference to meet the cost of those programs.

In 1953, you will notice on this chart, that we added another cornerstone to the financial foundation for public schools with Impact Aid. You have then State Aid, local taxation, 874 because of the federal activities, and Johnson-O'Malley. It took Congress three years to realize that Indian lands and the title that is being held in trust for the Indian lands creates a tax burden on those schools; in 1953 is when Congress recognized that Indian tax-exempt land creates a financial burden to a degree upon public schools. You look at the infusion of 874 as another tool or financial resource to assist in providing school programs. You will also note on that last page Impact Aid was initially authorized for a 10-year period, and as mentioned before, Johnson-O'Malley does not have an expiration date on the authority in the legislation. Impact Aid has a 10-year life expectancy, so in 1963 Congress had to reauthorize Impact Aid. From '63 to '73, theoretically, would have been the new reauthorization period, however, Congress took a look in 1972, and said there were some changes that were needed, so they used the Impact Aid authority. As an amendment to Impact Aid was the reauthorization of all of the elementary and secondary education programs--Title I, Title II, Title III, and all the way down to Title IX. Because the ESEA package needed to be reauthorized, Congress attached it to the Impact Aid bill. Additionally, because of the support from Indian country for additional programs, the Indian Education Act was created and submitted to Congress as an amendment to the ESEA package. So you had at that point a parent law or bill that was being considered for reauthorization--the Impact Aid legislation. You had attached to that all the elementary and secondary education act provisions, and attached to that you had the Indian education section.

Now you look at the Legislative process, and say, "Why did that happen?" Indian people represent less than 1% of the total American population. It is going to be pretty difficult for us to get a bill through exclusively for Indian children. So you attach the Indian provision to the elementary-secondary bill and you align yourself with all of those people that are economically disadvantaged--all the urban ghetto areas, all of the mayors of major cities, all of the unions. And then you also form another alliance with all the military installations in the United States. And so when the Five-Star Generals from the Pentagon, the mayors from major cities that have economic and labor problems, and Indians get together, you are pretty well assured that you are going to get what you need, because of the power of the vote.

One other interesting thing that has happened in the reauthorization that has just taken place in this last Congressional session is the fact that that mechanism has now been diversified to another method of legislative development.

If you look at what has happened to Johnson-O'Malley in the same process, you say, "Now we have two federal statutes that provide for basic, fiancial assistance that go into normal operations of a

school. You have Johnson-O'Malley and you have 874." Congress and a lot of congressional staff people were looking at this and saying, "We have two federal programs doing the same thing. Why? Is it necessary?" So you look at the change in the Johnson-O'Malley regulations in 1974 that Terry talked about, which were implemented in Arizona in 1975, and you see a three-year phase-out, not because the Johnson-O'Malley authority expired, but because of regulation changes. The overriding question was, "Is there a justification for both sources of revenue to support public education?" The consensus was that there was not. Therefore, you have an elimination of the Johnson-O'Malley Basic Education program over a three-year phase-out. This year no public school across the United States is supposed to receive any JOM basic support for their general operation. In addition to that, last year, the last year of the phase-out, they froze 50% of the money authorized. They wouldn't even allow it to go out to the schools to meet their contractual obligations. Public Law 95-561 addresses that issue as well, by language that mandates the release of the frozen funds.

As you look at the whole foundation for financing public schools you see a shift in what we end up with, and there is some speculation on this in the final results of 1978, on the bottom of that page where you have state aid, local taxes, and 874. These three revenue sources provide the foundation that supports public education, other than miscellaneous income from rents, school property, etc.

Now we can jump back over to page 3 and 4--you look at 1950 as being that date that Congress saw fit to put money into public school operations because of federal impact status, and in 1953 they changed it because they recognized that Indian land did have an impact on taxable revenue. In 1953, the Secretary of the Interior was authorized to transfer federal property to states or local education agencies to assure educational activities for Indian students. Now that's an authority, but in P.L. 93-638 they have another amendment to this section which says--you don't just turn over dilapidated federal property--you have to evaluate it and upgrade it so that it is in a suitable condition before you turn it over. And this stipulation, to a large extent, is a key element the Bureau of Indian Affairs is using--they say they don't have any rennovation money, any school facilities money to upgrade those federal properties so we can turn them over to tribes or public schools. So you have a lot of loopholes that agencies can grasp as a crutch for not doing what the law really allows them to do.

The balance of these kinds of legislative authorities speak to the Indian Adult Vocational Educational Act, Bilingual Education, and then the Indian Education Act of 1972. When we look at what has happened in relation to federal legislation, we look at the Johnson-O'Malley regulations as being changed in 1974, to allow the maximum input of Indian people and Indian tribes in the educational systems, be they Bureau, contract or public. That one idea is the idea that the Congress captalized on the creation of P.L. 95-561,--in terms of Federal Impact

Aid they're saying that because public schools receive Impact Aid money, stemming from the fact that the public school and the children that reside there, and the parents that live there, are in fact on Indian land, then the Indian tribes need to be involved more in the public school education of their children because the Government is, in fact, providing finances which are in lieu of taxes. In essence, the Government is paying the taxes for the tribe, as one might look at it. Uncle Sam is saying, "Because we hold title to your property, it is non-taxable, you are losing revenue for the support of that public school system. Therefore, we are going to provide you funds under a formula." But you look at P.L. 95-561 which includes those concepts stemming from H.R. 15. It includes a lot of other things as well. If you will look on page 14 we will run through exactly what Public Law 95-561 is. There are 15 different titles, 15 different programs under that one umbrella. Program No. 1 is for the Financial Assistance to Meet the Special Educational Needs of Children. So it is a reauthorization of the old ESEA Title I program.

Title II is the Basic Skills Improvement Act, establishing a new Title II of ESEA.

Title III includes both new and old as a new Title III Special Projects of the ESEA. Under those Special Projects you have Part B - Metric Education, Part C - Arts in Education, Part D - Preschool Partnership Program, Part E - Consumer Education, Part F - Youth Employment, Part G - Law-Related Education, Part H - Environmental Education, Part I - Health Education, Part J - Correction Education, Part K - Dissemination of Information, Part L - Biomedical Sciences, and Part M - Population Education. There are a lot of programs under that one Title.

Title IV of the law deals with Educational Improvement, Resources and Support, which is an amendment to Title IV of the old ESEA. Part B of Title IV is Instructional Materials and School Library Resources. Part C is the Improvement of Local Educational Practices. Part D is for Guidance, Counseling and Testing in school systems.

Title V is the old Title VI of the ESEA which provides federal money to upgrade state departments of education.

Title VI - Emergency School Aid establishes a new Title VI of ESEA, primarily dealing with the issue of desegregation in urban areas. In that section you have Special Programs and Projects under 608, under 609 - Metropolitan Area Projects, 611 - Educational Television and Radio, 616 - Neighborhood Schools. That is primarily for large urban areas, as I read it. Theoretically some of us could apply for desegregation money if you want to look at it facetiously. Due to our unique geographic and population our problem is not to desegregate, but to integrate. In Window Rock, for example, we have 95% Indian enrollment throughout so to appease the Civil

Rights people we should integrate, or dissipate the populbation we presently have. But it is utterly unrealistic to do so.

Title VII is the reauthorization of Bilingual Education. There is a specific section which was not in the previous legislation, and again Congress has seen fit to spell out a specific line item for bilingual education of Indian children in school. Schools serving Indian children do not compete with everyone else, now you have your own section within Title VII.

Title VIII provides funds for Community Schools.

Title IX pulls together Part A - Gifted and Talented Children, Part B - Educational Proficiency Standards, Part C - Women's Educational Equity, Part D - Special Grants for Safe Schools, and Part E - Ethnic Heritage Program.

Then we get down to the nuts and bolts of this presentation, the next two items which are only two elements of the whole Law--Title X, the Impact Aid Amendments. The new stipulations under Part A for 874, and the new stipulations under Part B for the construction component, P.L. 815.

In Title XI, Congress has set aside a specific title dealing with federal programs as they apply to Indian lands and Indian tribes, and in that section we will be going through in detail Parts A, B and C.

Title XII covers Administrative Provisions - Equalization, Paperwork Control, Federal, State & Local Responsibilities, and General Provisions for HEW.

Title XIII revises other education programs - Adult Education, Educational Opportunities for Adult Indians, Higher Education, Indochinese Refuge Children, Education of the Handicapped, and Guidance and Counseling.

Title XIV is the Overseas Defense Dependents Education Program.

And Title XV covers Other Miscellaneous Provisions: International Year of the Child, National Academy of Peace & Conflict Resolution, and some other Miscellaneous Items. As you can see, when people talk about H.R. 15, H.R. 15 as a House Resolution is included in only two segments of the final Law, that is P.L. 95-561.

Now let's go back to Title X and run through what Congress basically did in relation to the Impact Aid Law. The United States Congress reached a compromise position on the reauthorization on Federal Impact Aid to education. In essence, the Law provides financial assistance to the school districts which incorporate federal non-taxable property. Many Congressmen view the program to be a pork barrel wherein districts which do not need financial assistance are receiving federal dollars to simply reduce the property taxes. In the handouts that I

have provided for you, there is an extraction from the General Services Administration Handbook, "Why the Need for Impact Aid?" Nationwide, the United States Government owns or holds title to 33.7% of all of the land in the United States. This is part of the reason why. The other reason is that the Federal Government bureaucracy has grown in terms of civilian employees. From 1950 there were 1.9 million civil service employees picking up Government paychecks. In 1978 there were nearly three million. These figures do not include those people in the armed services. Also, the average cost of educating one child rose from $209.00 in 1950 to $1,578.00 in 1978.

You look at the land that is identified in the horizontal scale: Alaska, 96.4% of all of Alaska is owned by the Federal Government; Arizona - 43.7%. This is another major reason why the Government is involved in providing funds for public education and public schools.

We'll get into the concept of funding formulas and what Congress did under 95-561 in relation to the amount of money that is going into programs.

In Title X then, Congress has said it is going to allow Impact Aid and all these other programs a life of five years, from 1978 to 1983. In 1983, or before, we are going to have to launch another campaign to try to justify the existence of all of those programs.

There are a number of changes in the overall Impact Aid Law under Title X, and on pages 11 through 13 all of those are spelled out. If you read along with me, we can go through them.

Under the first section there's a provision that was included to protect districts located in more than one county. If you have a school district that overlaps two different counties, until the passage of this law many of those districts could not count students on either side, only where your headquarters were located. So this is a very limited authorization law, allowing those comprising more than one county type school district to receive additional money.

Previously school districts were required to absorb 3% of the total eligible "B" students. Under Impact Aid you basically say, "Because we have non-taxable land, we have to identify every student whose parents live on that federal land, and work on that federal land." If their parents are in that category, then you receive 100% funding. When you ask, "A hundred per cent of what?", you get into a system that says: School districts may claim one of three different options for 874 funding. You can take one-half of the national average, per pupil cost, you can take a state average, or you can take comparable districts, but you have to have five districts that are comparable. You may use whichever option brings you the most money. Then you multiply that figure times the number of students whose parents live on and work on Indian or federal land, and that's

where you get the dollars that go into your budget. There is another classification under Impact Aid that says there may be a situation where the parents do not live on the federal property or on Indian land but they work there. We are only going to give them 50%. Or if they live there, but don't work on the reservation or on federal land, we are only going to give those people 50%.

What does this all do administratively? Your school administration has to fill out a little form for every parent, every year. You ask, "Senator Hubbard, do you live on the reservation, do you work on the reservation? Fill out this form for me because I want to count your kids if they are in my school system because it means money." You are mandated to have the involvement of parents at least in terms of filling out forms for money. And a lot of parents look at all the paper work that is coming down, as mandated by both the state and the Federal Government and the tribes, and they say, "Hey, I've seen enough paper work. I don't want to fill this thing out."

Then as an administrator you have to look for another option. Who can I go to that can certify that Senator Hubbard lives on the reservation and that he works there? You go to the Bureau of Indian Affairs or you go to the tribe and you say, "Will you certify this?" Under the administrative regulations that is allowable if the parents refuse to fill out the forms. But it creates all kinds of administrative problems when you look at the classifications of children--under Johnson-O'Malley, for example, students have to have 25% red corpuscles or one-quarter degree Indian blood. You have to be able to certify that students are Indian, and tribally recognized. Under the Indian Education Act you have to prove that somewhere in your woodpile there was an Indian; the requirement is to prove Indian ancestry, not blood lines, for students enrolled in tribes served by BIA.

Under 874, you have to prove that the parents live on the reservation, or other federal land. You have all these different criteria and different ways of counting children for money. (Pete Homer, Sr. posed a question about farmers or migrant workers, etc.)

The question is "What does a school do about farmers or migrant workers that are living on Indian reservation land or on federal land?" Answer: All of those people are entitled to Federal Impact money as long as they meet the state requirements for enrollment. If they live on tribal land, they're farming under a lease or whatever; they are eligible for 874 money, provided their children are enrolled in school.

Part two of the provisions regards previous regulations wherein school districts had to absorb 3% of the total eligible students. Schools then, through local taxes or some other resource, provide that cost; in this new bill they have eliminated that absorption factor, the sharing factor between the local district and the Federal Government.

Section three of Title X says at least 75% of the previous year's funds paid under Sections 2 and 3 must be paid within 30 days of the

beginning of the current fiscal year to those districts who have filed a preliminary application. A lot of the districts have been hampered by the fact that Congress does not act swiftly enough in appropriating money. This section gives public schools the authority to draw down on 75% of last year's entitlement to get schools started in the fall, rather than going out and trying to register warrants and other kinds of maneuvers. We have some school districts saying,"If we don't have the federal money in our pockets we are going to close down the program until we get the dollars in our county treasury."

Section four of Title X states that local educational agencies are entitled to a hearing and due process before the Commissioner of the U. S. Office of Education certifies that any state meets the criteria for equalization and attempts therefore to claim the federal Impact Aid within the State Aid program. Senator Hubbard and his distinguished colleagues in the Arizona Legislature are thinking about a special educational finance session; if they decide to take all this additional Impact Aid money, claim it as state money, and then divide out those resources to all school districts, they must give affected schools a hearing. The schools can demand it, and tribes can demand it, before the Commissioner of the U.S. Office of Education sanctions any equalization program. Now as far as I know, there are only two states in the nation that have equalization programs as such--Kansas and New Mexico. Those states, in essence, take all of the federal funds, include them with state money, and then disperse it out. But HEW has certain criteria on what an equalization program is. Equalization is not, "I'm going to give you a dollar, you a dollar, and you a dollar--that's equality." Equalization in the sense of HEW educational programs is looking at the unique kinds of needs that the public schools have--transportation, housing, special education, etc.; you have to look at all these different functions within your total educational program. Thus, this section provides due process to local school districts in terms of involving them, or allowing them a voice, in HEW's decision whether to approve a state's equalization program or not.

Section five of Title X redefines free public education. For example,if you were a resident of California, the state provided free public education from kindergarten through junior college, and so 874 money was going to support junior colleges in California. Congress now defines free public education as K-12. California must finance its own junior colleges since it was the only state that recognized junior college programs as a part of free public education. Along with Proposition 13, that will have an effect in California in terms of their junior college program.

In Section six of Title X, the new language allows school districts to claim handicapped children even if they are attending a private school, and the public school is paying tuition. If a public school is paying tuition they are providing a free public

education for those resident children. One of the situations that we ran into is the fact that many school districts in Arizona have not geared up fast enough in the area of special education. Many schools cannot provide services for multi-handicapped, brain-damaged children, severely handicapped cases, etc. As a result, you have the very minimal special education services in some school systems. The state does not provide an adequate state special education school program. There are some private institutions where we pay tuition to have the severely handicapped children's educational needs taken care of, and as such, we can claim 874 funds on those children, if they in fact reside within our district.

The controversy on the pork-barrel issue arises from states where, for example, Maryland or Virginia, you have a lot of Congressional people and Federal Government employees working in and around Washington, D.C. who do not live on federal property. Their children are therefore classified as "B" students and because of the sheer number of students affected, a lot of those wealthy districts were receiving this additional money. Some Congressmen look at it as gravy going to those school districts. This whole issue of trying to re-evaluate Federal Impact Aid brought about the next section in Title X. The President shall appoint a Commission of 10 members to study the entire Impact Aid Program, and submit their report to Congress and the President, no later than December 1, 1979. Whatever that report says is going to, at least in my estimation, have a substantial bearing as to the continuation of the Impact Aid programs as we presently know them.

In Section eight of Title X, effective during the 1979-80 school year, districts with 20% federally-connected children (rather than 25%), will be placed in the highest normal funding category and will receive increased payments for military-connected students whose parents live on but work off of federal property of vice-versa. In essence, what this has done is to open up more eligibility for districts, depending on the number of Impact children they may have in their district.

Section nine says <u>if Congress appropriates sufficient funds</u> to meet the programs needs, there is a guarantee of 90% of the previous year's funding. One of the messages that I want to make clear here, and to those members who may not be here and may get a transcript of my presentation is that the biggest battle that we have is yet to come, and that is the battle for maximum appropriations to fully fund Impact Aid.

Under Section ten of Title X, foreign-owned property not on the tax role becomes eligible property. Foreign embassises, for example, become eligible property for 874 purposes.

Under Section 12 of Title X the new language changes P.L. 81-815 which is a companion bill to P.L. 874. It provides certain funds for the construction of new schools. This particular change in the law allows public schools to use 815 money for remodeling, rehabilitation of

buildings, leasing of buildings, and changes the funding cycle base year to 1978-79. It changes the method of funding that makes it more compatible with 874. It eliminates the pay-back provision, which is basically one where a school district borrowed money from HEW, and they had a pay-back type of provision within 815; under this new law there is no requirement for those local districts to repay those funds.

Under P.L. 81-815, we have been faced for a number of years with the perplexing situation of having to go through what is known as HEW's priority index for establishing national priorities for construction of eligible schools. In the previous legislation the priorities were: 1) acts of God; if you had a hurricane, or a typhoon that wiped out a school system, that replacement became a number one priority for the U.S. Office of Education under the federal assistance program.

The second priority was for schools on military bases.

In the third classification came public schools and all other schools on federal property. Congress had only seen fit up until this time to appropriate 10-15 million dollars every year, which might build one school. When P.L. 93-638, Education Assistance Act was passed, one amendment extracted public schools on Indian reservations and put them outside of competition with the acts of God and the military. However, Congress saw fit the first year to only appropriate 10 million dollars under P.L. 93-638 for the amendment to P.L. 815. Since that time there has been no money for the P.L. 93-638 Indian set aside for construction, so we don't have to compete with everyone else, but we have no money.

This year, under P.L. 95-561, there are 16 million dollars available for construction, exclusively for Indian programs, which is a little over 50% of the total appropriation this year of 30 million dollars. Whichever public school that has the greatest needs and can convince HEW that they do stands a pretty good chance of getting some construction money this year.

For Indian people, the most significant single section is Title XI. Under Title XI, there are a number of specifics, but there are three general concepts. Part A of Title XI says we are going to increase Federal Impact dollars to public school districts serving Indian students, but there are going to be certain new provisions under this program.

In Part B, Congress mandated the reorganization of the Bureau of Indian Affairs educational system. There have been almost 100 years to restructure Indian education in the Federal Government through the Bureau of Indian Affairs, and the BIA has not been able to adequately meet the needs of the students served. Congress mandated changes in approximately 10 to 12 areas. Each specific area

to be changed is identified in the law, and a deadline of December, 1979, was targeted to develop all the regulations to change the Bureau of Indian Affairs education system.

Part C of Title XI reauthorized the Indian Education Act, which you now know as Title IV. Under Title XI you have two separate things: 1) Congress is saying to the Department of the Interior it must reorganize BIA education, and they're saying to HEW--both the Impact Aid office and the Indian Education Programs office--there are certain things that they will have to do within the next year in developing regulations so that by the time we get around to 1980, when all this new money will begin flowing, the regulations will have been developed, the funding systems will be there, and the programs will become functional.

To return to Part A of Title XI, the Congress has basically said that a public school district located on Indian property and making application to receive federal assistance under the Impact Aid Authority must develop a policy showing how they are going to involve and inform the Indian parents and tribes as to the entire 874 program. Public schools do not have to develop a distinct budget proposal saying we are going to spend $30,000 for electricity, $80,000 for transportation, etc., that is not what Congress is looking for. They are saying, "Create a policy that shows how your public school is going to relate to Indian parents and tribes, based on the fact that this money is coming to the schools because Indian property is generating the dollar." This means that as one of the task force assignments under Title XI, guidelines are going to be developed to determine the regulations to carry out this law. In addition, there are some disagreements or lack of information, I guess would be a better way to describe it, regarding a school district that has a majority of Indian board members or an all-Indian board that would be exempt from the regulations. If the exemption clause is not in the final law, any public school district, no matter what kind of school board composition may exist is going to be mandated to follow all of the conditions within the law, in terms of following grievance procedures and all of the other stipulations that are included. In essence, then, the first section says we are going to reauthorize P.L. 874 for another five years and we are going to amend the section that applies to Indian reservations. The funding provisions basically include an additional 25% for all eligible students.

Indian children enrolled in public schools eligible under this program shall be counted as 125% of regular financial entitlement. So looking at what we started when we started back in the House, we're saying, "Let's try to get additional 874 money for Indian children on Indian reservations." Congress has seen fit to provide us an additional 25% for all those children that we are educating in public schools. In addition to that, because of a law suit that was filed by the Window Rock School District some three years ago against HEW there was an add-on provision in the law that said that the U.S. Office of Education, through the School Assistance and Federally

Affected Areas program could provide an additional 50% for handicapped children. Under classification 3A2, administratively HEW made a decision that only military children were eligible, when in fact every form that that office used classified Indian children the same as military children. And so a suit was filed against HEW and we won. The suit gave every public school district across the United States an additional 50% entitlement for special education students who are Indians. For those 3A2 students you have the 100% entitlement, plus 50% additional for special education students and now an additional 25% on top of that, so your actual percentage for Indian handicapped children attending public schools who are eligible for Federal Impact Aid is 187.50% of entitlement.

In the other handout which is provided for you there is a tier structure outlined which is difficult to understand, but at the same time it might be worth your while to review it. Administratively, the U.S. Office of Education will basically follow this format in terms of giving money to public schools, because P.L. 874 money does not go to the state unless the state has an approved equalization program; normally the check is sent directly to the school district. On the first page of the handout are the categories of funding, the local contribution rate, and the percentage of your allocation. On this second sheet there is a definition for every one of the categories, what type of children, what type of school system belong in each of the categories, etc.

Item 2 of the first category is basically for military bases that are closing, and there is one other section which they call a hold-harmless provision under HEW.

Items 3(a) and 3(a) (2) are primarily those districts that are major Impact areas. If you look at the funding levels you can see that public schools serving Indian children fare basically better than a lot of the other systems. Your LCR is your local contribution rate which is derived from three different formulas: 1) one-half of the national average per pupil cost; 2) the state average per pupil cost of comparable districts' costs. Then you multiply that figure times the percentage figure times the number of eligible children you have, and the result is the dollars you should get. The Appropriations Committee usurped a lot of authority of the Authorization Committee in this particular bill, because they set ceilings on the amount of money in the authorizing law and left dollar decisions to the Appropriations Committee. All eligible schools will only receive 25% of what their estimated total amount is going to be until everyone in tier 1 is funded, then they will move down to the next tier. Most public schools on Indian reservations are in tiers 1 and 2. There is a guarantee that full funding will be done through tier 2 for Indian reservations. One of the things that this new law does is to create a lot of nebulous areas that have not been answered either by the Federal Government staff personnel or people out in the field with respect to key specific issues. And one, for example, under Section 1103 of Part A, says schools will establish a grievance

procedure. In its policy a school district then will say, "Here is how we propose to inform the tribes and tribal members of what the 874 program is all about." If the tribe has a grievance or feels the public school is not living up to their policy, they can develop a written grievance and submit it to HEW. There is a mandatory grievance procedure which needs to be followed. If the representatives of HEW agree with the tribe that the public school is in fact not doing what it really should or could be in terms of informing the tribe on the operations of 874, the tribe can decide to pull all P.L. 874 money out of that public school by withdrawing all of their Indian children by tribal resolution from the public school, and 1) directing the Bureau of Indian affairs to educate all of those children, or 2) creating their own tribal school using P.L. 93-638 contract authority or regular Snyder Act money. Now, if and when that happens, you may well find a situation arise where individual parents and individual children assert their individual rights as opposed to Tribal Council action, and you may have some internal conflicts develop between individual Indian people and their Tribal Council, and then you have an internal battle that may shake the roofs off a lot of reservation areas.

But those are some of the things that are very speculative in the bill and need to be addressed in the development of the regulations to implement this law.

Sections 1102 and 1103 of Part A deal with the Johnson-O'Malley program.

Part B of Title XI is the BIA reorganization part. Section 1121 says that the Bureau of Indian Affairs is going to have to develop some basic educational standards. What does the BIA expect every child to have in their educational portfolio when they graduate? What kind of facility standards, what kind of certification standards, what type of personnel? Under Section 1122 there is created a task force assignment to set national criteria for dormitories.

Section 1123, sets regulation change differences. 1124--studies, 1125--facilities construction, 1126--BIA education function. As a result of this law, the Bureau of Indian Affairs is presently meeting in Phoenix, Arizona, with all of their area directors, education personnel, and people from Washington. They have identified 12 major task force areas and are going to be soliciting from Indian tribes nominations for individuals to serve on those task forces to assist the Bureau in the development of standards. What do we as Indian people want from the Bureau in terms of providing services for all the Indian children that attend Bureau schools? I know a number of tribes that have sent in recommendations or nominations for different individuals, but if you haven't already been appraised, you might want to try to get hold of Mr. Rick Lavis, the Under Secretary of the BIA, who is coordinating that entire effort.

Under Part C is the basic reauthorization of Title IV, the Indian Education Act. Currently we have two laws addressing the same concept, that of meeting the unique needs of Indian students, namely Title IV and JOM. Congress surely in the next go-around is going to say, "We have two authorities which may be doing the same thing. Justify the

difference or we will eliminate one." So unless we come up with some justifiable position as to the retention, I can see public schools losing either JOM supplemental or Title IV, Indian Education Act. We have experienced the elimination of basic support funds under JOM and may possibly have the elimination of supplemental JOM.

These are some of the things that tribal people need to be aware of when they look at legislation in terms of pooling their ideas to transmit their collective thoughts to people like Senator Hubbard who invariably will be fighting the fight for us down in the Arizona Legislature when the Arizona Legislature goes into their special education session.

And with that general overview, I'd like to thank you for extending my 30 minutes, but there's no place to go, due to the snowstorm outside. Thank you very much.

LUNCHEON: MODERATOR MR. PETE HOMER, SR. (COMMISSION VICE-CHAIRMAN) INTRODUCED MR. TERRANCE LEONARD, REPRESENTING MRS. CAROLYN WARNER, SUPERINTENDENT OF PUBLIC INSTRUCTION. (BRIEF SUMMARY READ AS FOLLOWS):

State Aid is based on these factors;

1) The state support level (SSL)
2) The Average Daily Membership (ADM)
3) The assessed valuation of the District (A/V)

The State Support Level is common to all school districts. For FY 79, the SSL is:

Elementary (per ADM)	*$1,044.90*
High School (per ADM)	*$1,423.64*

Final State Aid computations are based on the ADM reported (and certified) by each school district through the 8th reporting period for the CURRENT year.

Step 1 -- The ADM (elementary or high school) is multiplied by the appropriate (elementary or high school) State Support Level. This produces a gross entitlement for State Support.

Step 2 -- The qualifying levy. To be eligible for state aid, each district must apply a qualifying levy of $1.30 per $100 of assessed valuation. Note that this step is "COMPUTATIONAL".

Step 3 -- From the "gross entitlement" determined in Step 1, the qualifying levy (determined in Step 2) is subtracted. The difference is the "net state aid".

Districts with a high assessed valuation will receive less state aid (their considerations being equal, i.e., ADM) than districts with low assessed values.

MODERATOR CLINTON PATTEA OPENED THE AFTERNOON SESSION:

Good afternoon again, we'll get started.

On the Agenda this afternoon we had Mr. Wayne Pratt, from the National Indian Training & Research Center, who was to have presented "The Impact of House Resolution 15 (Public Law 95-561)". Mr. Pratt is unable to make it, however, we will include a summary of his report in the Conference publication. H.R. 15 was passed by Congress at the eleventh hour before they adjourned, so the information on it has not been made available on a national level yet. Just a few people have that information. At the present time, the BIA is having a conference in Phoenix, going through this, for their BIA education administrators; some of the Indian Tribes were invited to participate in that conference.

(This Analysis was forwarded to us by Mr. Pratt for inclusion):
MR. WAYNE PRATT, NATIONAL INDIAN TRAINING & RESEARCH CENTER: ANALYSIS OF TITLE XI BY THE BIA PERSONNEL DEPT.:

Analysis of Title XI (Indian Education) of the Education Amendment of 1978 (PL 95-651: Act of Nov. 1, 1978), as it pertains to the Bureau of Indian Affairs

Title XI of the Act is divided into three parts as follows:

Part A - Assistance to Local Educational Agencies (Sections 1101 - 1103).

Part B - Bureau of Indian Affairs Programs (sections 1121 - 1139).

Part C - Indian Education Provisions (sections 1141 - 1152).

PART A - ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

POSSIBLE SHIFT OF INDIAN STUDENTS FROM PUBLIC TO BIA FINANCED SCHOOLS.

Section 1101 includes amendments of the HEW administered PL 874 Impact Aid program under which local public schools receive operating financial aid for certain Indian and other students. Section 1101(d) requires that by Nov. 1, 1979 the Secretary of the Interior (in consultation with HEW's Commissioner of Education) promulgate regulations providing that where a local public education agency fails to undertake certain remedial actions required by HEW, "the affected tribes

may elect to contract with the Bureau (of Indian Affairs) under Title I of the Indian Self-Determination and Education Assistance Act (see 25 U.S.C. 450f) to provide educational services provided by the local educational agency or elect to have such services provided by a Bureau of Indian Affairs school. Such regulations shall also establish procedures whereby the funding necessary to provide such educational services may be obtained, and establish such procedures as are necessary to ensure orderly and expeditious transition in provision of educational services".

BIA AID TO PUBLIC SCHOOLS

Section 1102 provides for the development and publish in the Federal Register by March 1, 1979 for comment by May 1, 1979 of alternative of formulas for the distribution of funds by the BIA for supplemental programs under its on-going "Johnson-O'Malley" program of aid to public schools. After receipt of such comments, the Secretary of the Interior is to "conduct a field survey listing all alternative formulas." Beginning with fiscal year 1980, the funds are to be distributed under a formula "which the majority of ***tribes determine, by vote certified to the Secretary (of the Interior), to be most equitable***" and such formula is to be published in the Federal Register by July 1, 1979 and may be revised periodically.

Section 1103(a) requires the Secretary of Interior to pay out (by Dec. 1, 1978) unexpended FY 1978 funds obligated by the BIA for basic support under the "Johnson-O-Malley" program of aid to public schools.

Section 1103(b) provides specific authority for funds (such sums as are needed) "to be appropriated" to the BIA for basic educational support under the "Johnson-O'Malley" program of aid to public schools if the "total sum of Federal, State, and local funds is insufficient to bring the education of the enrolled Indian Students to a level equal to the level of education provided non-Indian students *** where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools." Such payments are to be made through the Indian parent committees established under the Johnson-O'Malley program.

PART B - BUREAU OF INDIAN AFFAIRS PROGRAMS

Section 1121 is under the heading "STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS". It requires the Secretary of the Interior, in consultation with HEW and Indian organizations and tribes to carry out (directly or by contract with an Indian organization) studies and surveys and then develop or revise standards for the basic education of children in BIA schools and in schools aided under contracts with the BIA. The standards

are to be proposed for comment by Feb. 1, 1980 and final standards are to be effective by May 1, 1980. A plan for implementing the standards is to be submitted to the Congress within a year of their effective date and annually there after with each annual BIA budget request. Such sums as may be necessary are authorized for appropriation to meet the standards. Alternative or modified standards are authorized where necessary to achieve compliance with minimum state standards for accreditation.

Section 1121(d) authorizes a tribal governing body (or its designee school board) to waive part or all of such standards where they find them to be "unappropriate or ill-conceived", and to revise them "to take into the specific needs of the tribe's children." The Secretary of the Interior must accept such revised standards unless he specifically rejects them "for good cause and in writing" and such a rejection "shall be final and unreviewable."

Under section 1121(e), the Secretary is precluded from refusing to enter into a contract with respect to any contract school on the basis of failure to meet the standards adopted pursuant to section 1121 and the boards of such schools may request, and the Secretary shall provide, alternative or modified "to take into account the needs of the Indian children and the contract school."

Section 1122 is under the heading "NATIONAL CRITERIA FOR DORMITORY SITUATIONS" and requires the Secretary of Interior (in consultation with HEW and Indian tribes and organizations) to undertake a cost study of "boarding arrangements for Indian students" provided directly or under contract by the BIA. By Feb. 1, 1980, the Secretary is to propose and by May 1, 1980, establish "national criteria for such dormitory situations." A plan for meeting such criteria is to be submitted to the Congress within one year of their effective date and annually thereafter with each annual BIA budget request. Such sums as may be necessary are authorized to be appropriated to bring schools up to the level required by such criteria. A procedure is prescribed for any proposed revisions of such criteria.

Section 1123 requires the Secretary of Interior to establish by [illegible]l, 1980 the regulations necessary to implement sections 1121 and [illegible].

Section 1124 authorizes the appropriation of "no more than $1,000,000" to carry out the studies under sections 1121 and 1122.

*Section 1125 is under the heading "FACILITIES CONSTRUCTION" and requires each school, dormitory, or other educational facility "operated by the BIA or under contract with the Bureau" to be brought into compliance with "all applicable Federal tribal, or State health and safety standards, whichever provide greater protection *** and with section 504 of the Vocational Rehabilitation Act (29 U.S.C. 794) ***." Any such tribal standards "shall be no greater than any otherwise applicable Federal or State standards". However, failure to meet any such standards*

will not require termination of the operation of any facility in use on November 1, 1978.

The Secretary is to submit to the Congress a plan under which each such facility will be brought into compliance with the standards required by section 1125. Such a plan and detailed cost estimates is to be submitted by November 1, 1979 and annually thereafter with each annual BIA budget request. Appropriations ("such sums as may be necessary") are authorized to achieve the required standards. The BIA's school construction project priority criteria is to be submitted to the Congress and published in the Federal Register by May 1, 1979. Each BIA budget submitted to the Congress requesting school construction funds is to include a current school construction priority list and such is also to be published in the Federal Register.

Section 1126 is under the heading "BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS". It would provide:

> (a) The Secretary of the Interior is to vest in the Assistant Secretary-Indian Affairs "all functions with respect to the formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau (of Indian Affairs). The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs within the Bureau (hereinafter referred to as the 'Office'), which shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding."
>
> (b) "The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau office and the Office in order to facilitate the expeditious consideration of all contract functions relating to education. Nothing in this Act shall be construed to require the provision of separate support services for Indian education."
>
> (c) The functions of the field personnel who are under the direction of the Office Director are generally described.

Section 1127 requires publication by May 1, 1979 of the policies and procedures implementing section 1126.

Section 1128 is under the heading "ALLOTMENT FORNULA" and requires the Secretary of the Interior to establish by regulation (subject to the section 1138 procedure described below) "a formula

for determing the minimum annual amount of funds necessary to sustain each Bureau or contract school." Among the specified factors to be considered is "the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located." BIA funds for the general local operation of BIA and contract schools are to be allotted in accordance with such formula, except that no BIA and contract schools is to receive less than the average Federal payment per Indian child attending public school in the district in which such BIA or contract school is located. The Secretary is authorized to provide operating funds without regard to the formula in cases of emergencies or unforeseen contingencies not otherwise provided for under the formula but each such instance is to be reported to the Congress.

Section 1129 is under the heading "UNIFORM DIRECT FUNDING AND SUPPORT". It requires the Secretary of the Interior by May 1, 1979 to establish by regulation (under the section 1138 procedures) "a system for the direct funding and support of all Bureau schools and contract schools." Prior to the end of each school year, each such school is to be notified of its approximate allotment for the following year. Such system shall distribute funds on the basis of the section 1128 formula. The funds are to be expended under local financial plans which are to be subject to ratification or rejection by the local school board and to revision by such board "to meet needs not foreseen at the time of preparation" of the plan. Such a school board action may be overturned "for good cause" by a BIA agency superintendent of education.

*Section 1129 (c) precludes the use of self-determination grants under section 104 (a)(2) of PL 93-638 (25 U.S.C. 450h (a)(2) to provide "technical assistance and training in the field of education by the Bureau" unless such services are in accord with a tribally approved plan "under which control of education programs is intended to be transferred" to the tribe or tribes involved "within a specified period of time ***."*

Section 1130 is under the heading "POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION" and declares that -

> *"It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to foster Indian control of Indian affairs in all matters relating to education."*

Section 1131 is under the heading "EDUCATION PERSONNEL" and sets up a local education personnel system in BIA comparable to that under the "Defense Department Overseas Teachers Pay and Personnel Practices Act" of July 17, 1959 (20 U.S.C. 801-907) for which regulations are published in 32 CFR 259.1.

Section 1131(a) provides that (effective Nov.1, 1979) the provisions of title 5, U.S. Code relating to leave pay, classification, appointment, promotion, and removal of civil service employees, shall not apply to

"educators or to education positions" as defined in section 1131(n). The Secretary of the Interior is to promulgate regulations governing this new personnel system. However, somewhat detailed provisions of the bill set out recruiting and hiring requirements or procedures including the involvement of school boards in hiring and firing decisions with the final decision in disputed cases resting with the BIA's Director of the Office of Indian education Programs.

Section 1131 (e) prescribes terms and procedures for the discharge of certain employees.

Section 1131 (f) authorizes tribal governing bodies or their duly authorized school boards to waive the application of the Indian preference laws with respect to any personnel action under the section.

Section 1131 (g) provides that -

> *"Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary (of the Interior) shall determine in accordance with (the section) the applicability or inapplicability of such chapter to positions and employees of the Bureau."*

Section 1131 (h) requires that salaries for personnel under the section are to be comparable to the rates for comparable positions and qualifications in the civil service. A 25% cost of living allowance for Alaska is authorized as is a 25% post differential based on environmental or working conditions.

Section 1131 (k) provides that in the case of a person employed under section 1131 who transfers to another Federal position under a different leave system, his accrued leave may be transferred "in accordance with regulations which shall be prescribed by the Civil Service Commission."

Section 1131 (o) states that the section applies to any person hired on or after Nov. 1, 1979 for an "education position" as defined in subsection (n). Enactment of the Act does not alter the rights of persons employed before such date but anytime before Nov. 1, 1983 such persons may make an irrevocable election to be covered under the section.

Section 1132 is under the heading "MANAGEMENT INFORMATION SYSTEM" and requires the Secretary of the Interior to establish by Nov. 1, 1979 a BIA 'computerized management information system' to provide the agency, area, and central offices with information as to student enrollment, curriculum staff, facilities, community demographics, and student assessment information.

Section 1133 is under the heading "BUREAU EDUCATION POLICIES" and requires the Secretary to develop, publish in the Federal Register,

and submit, by April 30, 1979, to BIA "field offices and agencies", tribal governments, and the appropriate Congressional committees a "draft set of education policies, procedures, and practices for education-related actions of the Bureau." By Nov. 1, 1979 "such uniform policies and procedures shall be finalized and promulgated" and they, "and their periodic revision, shall serve as the foundation for future Bureau actions in education."

*Section 1134 is under the heading "UNIFORM EDUCATION PROCEDURES AND PRACTICES" and requires the Secretary to "cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such of the concerns of those divisions as they relate to education, and *** report such practices and procedures to the Congress."*

Section 1135 is under the heading "RECRUITMENT OF INDIAN EDUCATORS" and requires the Secretary to provide a recruitment policy with respect to qualified Indian educators and a detailed plan to promote employees from within the BIA including opportunities for acquiring work experience prior to actual work assignment.

Section 1136 is under the heading "ANNUAL REPORT" and requires the Secretary to submit to appropriate congressional committees "a detailed annual report on the state of education within the Bureau" including relevant problems and suggestions for improving the BIA's educational system and "increasing local Indian control".

*Section 1137 is under the heading "RIGHTS OF INDIAN STUDENTS" and requires the Secretary to promulgate by May 1, 1979 rules and regulations "to insure the constitutional and civil rights of Indian students attending Bureau schools ***".*

Section 1138 is under the heading "REGULATIONS" and provides that regulations implementing sections 1126 - 1137 shall be subject to the provisions of section 431 (20 U.S.C. 1232) of the General Education Provision Act, and "shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section."

Among the requirements of section 431 of the General Education Provisions Act is one that within 60 days (by Dec. 31, 1978 in this case) of the enactment of legislation subject to the section, there shall be submitted to the Congress a schedule of the plans to promulgate rules, regulations, and guidelines implementing the legislation, all of which are to be promulgated within 180 days of the schedules submission to the Congress. In addition, section 431 provides that final regulations shall not be effective until at least 45 days after their submission to the Congress and shall not be effective at all if disapproved by a concurrent resolution adopted by the Congress. Other requirements deal with content of regulations, public comment, etc.

Section 1139 is under the heading "DEFINITIONS" and provides definition for the entire Title XI.

PART C - INDIAN EDUCATION PROVISION

Part C (sections 1147 - 1152) includes a number authorization extensions and amendments relating to Indian education provisions administered by HEW.

Section 1147 is under the heading "DEFINITION STUDY" and requires the Secretary of HEW to consult with the Secretary of the Interior and others in connection with an HEW study and analysis of the definition of "Indian" in section 453 of the Indian Education Act administered by HEW.

MODERATOR CLINTON M. PATTEA INTRODUCED DAVID RICH, ASSISTANT ATTORNEY GENERAL, STATE OF ARIZONA: "ATTORNEY GENERAL OPINIONS ON EDUCATION"

Thank you Mr. Chairman, Members of the Commission, it's very nice to be here. I have been here several times at various conferences, and I enjoy it more every time. I keep thinking it's more beautiful every time--and this has to be the prettiest, depending whether you like snow, obviously, and it may be in the next few days that we all are going to get to liking snow a lot more than we did when we started out.

I am here representing Jack LaSota, currently Attorney General, and also, I might add, am here representing the Attorney General Elect, Bob Corbin; both have asked me to tell you that we are quite pleased to participate in this Town Hall. We have in the past for various reasons not been able to be as active with the Commission as we would liked to have been. Just for an example, the last meeting of the Commission happened during the Tucson teachers strike, and we were tied up in Court on that for over a week. These things happen, I can do no more than apologize, unfortunately.

There has been quite a bit discussed this morning that if anybody would like to go into any of it further, I would be happy to do so. I have several opinions that I will throw out--tell you what I think they mean at least, and if you have any questions on those I will be pleased to answer. But on the other topics that have been discussed, I would also, if you would like to ask questions, try to respond. With such a small group I would like to make it as informal as possible.

For example, H.R. 15. H.R. 15 is about 150 pages long. I got a copy--it took me about 3 weeks to get it from Washington. Mrs. Warner wanted it because she was hosting the conference of Superintendents from all over the nation, for some various reasons in there. There's some provisions relating to paper work for example, that are going to be extremely important, plus H.R. 15 updates every Federal program in education on the books, so it is important. And more importantly to me it also establishes audit procedures. For example, when HEW has an audit exception, they want you to pay back a million bucks or so--I got

a letter like that about a year ago. HEW wrote us and said, "Please send us your check for $1.2 million dollars, and attach it to a copy of this letter"--the obvious inference is that if you didn't, they would lose it and I think that is probably a good inference. That was in connection with the Title I program that we are currently defending at present.

H.R. 15 has a lot of things in it that are very important. It has over 1,000 sections--extremely long, extremely complicated, and of course, it is also written the way that so inimitably Congress writes statutes so it's a lot of fun to go through.

Now, if I might, I'd like to spend a few minutes on Attorney General's opinions, and like I said I would like to have this very informal, so if you have any questions at any point, please don't hesitate. Also, can you hear over that fan, because frankly I could not hear this morning very well, and if you can't maybe you are better off, but I thought I'd check. O.K.

Starting with an older opinion I would like to first mention one that's going to become very important for school districts because it has to do with bidding procedures. The Opinion I refer to is 75-9, and I'll repeat the numbers a couple of times when I discuss the opinions, so that if you have any questions or would like to get a copy of the opinion, you can do so. Let me mention one thing--if you would like to get a copy of any Attorney General's Opinion, the Department of Education has an office that does nothing but, if you can believe this, mail out copies of our Opinions, and the person that runs that office is Mike Miller, and his phone number is 271-3330. So if you are missing any of the Opinions, and you have to be, because we are missing some, frankly, and need copies or replacements, simply call that phone number and they will mail it out to you.

Getting back to the first Opinion 75-9, the Opinion is important because it attempts, and I emphasize <u>attempts</u> to distinguish between what are outside professional services and what are goods and services. Specifically, the difference between the bidding requirements of ARS 41-730 which governs the procedures you have to go through to purchase almost anything, except for professional services, in other words, tables, chairs, napkins, anything that you can think of, will be governed as of May of this year, by 41-730 in every school district in the State of Arizona, the reason being in the 1977 session the Legislature passed an addition to 15-102 which is a statute governing the general powers of the State Board of Education. In sub 27 it required the State Board to adopt rules and regulations governing bidding in all school districts. They did that last May, but there was a clause saying that a school district had a year to implement this, and I am sure that everybody is familiar with this, so as of May, 1979, those rules and regulations are mandatory.

I keep getting off track, but here is another place I must get off track--the State Board bidding rule. The State Board has done an

amazing thing in the last month, and I must tell you what it is. They have tossed out all of the rules. They have 191 pages of rules so-called. A better description would be gobbely-gook, and they tossed them out, and they've been replaced. We rewrote them so that you can read and cite to them actually, and they even make a little bit of sense, I think, I hope. You will see when you read them. But in any event the bidding rules are contained in the new rules just filed by the Secretary of State as R7-2-701 and 702. So if you need those, or want to take a look at them, that's where they're at. And I might mention one further thing in connection with these rules, that is that because of the way the Legislature phrased the statute requiring the State Board to adopt the rules on bidding, as all the rules are is a regurgitation of 41-730 on bidding outside goods and services, 41-1051 through 1056 on outside professional services, and 34-201 which governs bidding for building. Essentially, those are the 3 categories where you absolutely must bid, because of these rules. So, if you don't have the rules you simply look at the statutes--it's the same thing, because the Legislature gave the State Board no discretion whatsoever, perhaps--it is hard to say--no discretion in changing what the statute said.

Now back to 75-9 finally--what does that Opinion say? That Opinion says that if you are seeking to bid services for which education is an important component for the person to render the services, then the bidding for those services is governed by 41-1051, the statute on outside professional services. Let's talk about an example. Clearly, any of the professions would fall in that, but when you start moving toward the borderline, for example, would an exterminator fall in that area, if you were going to bid to have someone come out and fumigate the school or whatever they would be doing? Well, that is not an easy question to answer, because obviously an exterminator has to have more knowledge than the average lay person that doesn't handle those kind of chemicals. The answer to that--well let me read the definition and the opinion, and let's see if we have an answer. On page 2 of the Opinion we define outside professional services as follows:

> "If a vocation calling occupation, etc., in which the labor and skill involved is predominantly mental or intellectual, rather than physical or manual."

Well, the whole point is that you really can't answer these questions in the abstract, so you use common sense, and the point that I would wish to make in this Opinion is that the bidding structures are more onerous than the standard under 41-730, and if in doubt, probably the best way to go is with those more onerous requirements. That's always a simple solution. Let me mention one other thing in connection with bidding while we are on the subject, because the question comes up again, again and again. Can a school district enter into contract for over a year, or must, because the statutes now are required to be followed by school districts, must they bid every year? Well, we got an opinion in the hopper which should be issued in the

next week or two that will say the following, I hope--you never know how they are going to come out, but what I think they will say is this, that the bidding requirements are mandatory. That, for example, in the area of insurance, and that's a most difficult area--it may be that the Legislature may take a further look at that this session, in the area of insurance everyone knows that you can't really enter into a contract with an insurance company for a year. I mean it takes a year to get your risk established so that they know what your track record is going to be. More likely, it is a 3 year thing. Well, it is a tough thing to reconcile with the bidding statute, and 41-730 says specifically that insurance must be bid. The Legislature has said so, there is no choice. The question then becomes must you bid it every year. The answer to that when you put it together with the budget requirements of the school districts is yes. But let me tell you a way around--there's always a way around, legal way around, if you please. What you can do is enter into a contract with an insurance company for one year with an option to renew for 2 further years at a certain price. At the end of the first year you rebid the contract, but if the price comes in from the other bidders, assuming you have it, and you may not anyways, then you don't have a problem; if the price comes in higher for other outside bidders you simply go ahead and exercise the option. Well, off the record, in my opinion, that is a little bit rinky-dink. But I don't know of any other way to do it. As I said before, perhaps the Legislature will look at it again this year, I don't know. I do know one thing, and that is they are going to be very, very rushed this session because they have already announced they are going to seek to adjourn by April 15th, which means they are only going to be in session for 3 months, the main reason being, of course, the special session that is scheduled for this Fall. And, of course, that special session probably is the most important thing for the purposes of this topic at this Town Hall, that could be discussedhere, and that is the special session to completely rewrite all the laws on how you finance schools, because that's the problem. And all of the things that we are talking about on the periphery here all go to that...how you finance schools, how you pay for them, where does the money come from, how do the Feds fit in, how does the State fit in, what do you do about property taxes when you can't have property taxes? Well, this is what the Legislature is going to look at this Fall. And I hope to take a long vacation during that time.

If there are no questions on bidding or the Opinion that I just discussed, 75-9, let me go on.

Insurance--O.K., we've talked about insurance a little bit on the bidding aspect. A very important Opinion that we just issued--I think it is important, I'm not sure--it is important for some districts, is the Opinion 78-198. Now Opinion 78-198 looked into a situation in Navajo County. What had happened was that several school districts had gone together to self-insure, specifically medical and hospitalization insurance for their employees. It was a remarkable pioneering effort, which I might say more remarkable in that they did not try to keep it on the Q.T. They actually asked to see if it were legal, instead of

just doing it. Well, whatever. The opinion goes into some detail on some difficult legal questions which are probably of little interest to anyone except lawyers, which many legal questions end up being in that category. The question, first of all, was: Does the State Insurance Department have the authority to regulate those self-funded plans of school districts, and the answer to that is no. Thank God! If they were in on that we would really have some headaches. Secondly, may the district go ahead and do it, do they have the authority to provide self-funding plans for their employees? The answer to that was yes. Great! It finally came out the right way for a change. And then the third question: Can you get together and pool your resources, which of necessity most school districts aren't large enough to be able to bear the risks themselves. Can you get together several school districts and spread this risk and kick in some bucks and have a self-funded program for the employees, and the dependents, of course--you should have that, for hospitalization, medical insurance, the answer is yes. The only real kicker that's hidden in the Opinion is the way that you got to go about doing it. The school district must make absolutely certain, and the Auditor General is looking into this kind of stuff, so if you are thinking about this make sure you read the Opinion carefully. The school district has to make absolutely certain that the money that's put into sort of a trust arrangement from which the benefits are paid, if the employee gets ill or if the dependent is ill, is under no control by the school district. The reason? Well, it would revert, and that would make a disaster out of having any kind of funds that would be secure from which you could pay benefits.

Now the Legislature may look at this this year again too, perhaps allowing it to be non-reverting, because that is very important in this area. Anyway, if you are in a district that has this kind of problem, or would like to save some money, and districts are saving money, take a look at that Opinion 78-198.

Now I am only to discuss about 5 or 6 Opinions, and then I am going to throw it open for questions, and if you don't have any, that's the way it goes, so if you have questions at anytime, please ask.

The next Opinion I'd like to mention is a very important one from a privacy standpoint, from the Buckley Amendment standpoint--I'm sure you are all familiar with the Buckley Amendment--it's a Federal statute that was passed back about in '74, the Citation is 20, United States Code 1232G. We had a lot of problems with that statute because we had a State statute that was directly in conflict with it, until last session we repealed the State statute and said that the Buckley Amendment applies, and of course, it did anyway, but it made us feel better to admit it.

The Opinion I am referring to is 78-139. That Opinion goes into a lot of detail on who has access to student records, and I think it is a very important Opinion. The questions that were asked are

as follows, and that's 78-139: May an individual public school board member review pupils records without written permission from parents or adult pupils? The answer to that is almost certainly no. The Buckley Amendment requires any school district to adopt a policy after notice to the parents, that defines very clearly on when and to whom student records may be revealed. And in order for any person to be included in that policy as allowed to look at student records they must be specifically identified as having a specific educational purpose. Now, a board member normally, of course, would not have a specific educational purpose in wanting to look at a student's records. Maybe an administrator wouldn't either. It depends on the circumstances. Look at the Opinion if you are interested in that kind of question. It goes into everything, I hope, that you always needed to know about the Buckley Amendment, and how to comply with it, so that there would never be any questions of losing Federal funding, because of course, the sanction, at least on paper, I don't think it has ever happened, the sanction for violating the Buckley Amendment, or for allowing someone to look at a student record that is not authorized, based on that statute, is that you lose all Federal funding. Well, if school districts these days lost all Federal funding they wouldn't have much left, so it is an important statute.

Some of the other questions in that Opinion, and I'm referring to 78-139, is whether, for example a board member could take a student's file? The answer to that is no. And whether the board member could even have a key to the area where the student's records are kept, again the answer is no, with some qualifications, but please take a look at the Opinion if you are at all interested.

As I mentioned, if you would like to have a copy of any of these, the State Department can send you out one in the next mail as it goes out. They are fairly prompt on that.

I would like to mention a couple of Opinions now in tandem because they are very closely related, and very controversial, I might add. We try never to write Opinions that are not controversial. It just simply wouldn't be worth the effort. The two opinions I refer to are 77-235 and 78-41. Again the two numbers--77-235 and 78-41. This is a very important issue I think from everybody's viewpoint here, the issue being when must a school district admit a child, when can they charge tuition, and where can a child go to school? Anywhere? Or must they only go to the school district where they live? Well, it gets pretty complicated. Let's see if I can simplify it. The two opinions I've mentioned relate to the question of when a district must admit a child to school without charging tuition. There's several instances. The statute defines this - 15-449D. It defines legal custody, which is the basis for 15-302 which says when a district must admit a child to school.

Going back to 449--legal custody is defined as that, and there are two circumstances, that exercised by the natural parent--that's pretty clear--natural parent, you can figure that out--or the alternative is

an order by a Court of competent jurisdiction, whatever that means. We could get into some very interesting questions on that little phrase alone. Previously, the school districts had allowed children to be admitted with powers of attorney. These two Opinions that I referred to sort of changed that. But they changed it because the Arizona Court of Appeals in a case called Chapp vs. High School District No. 1 ruled the powers of attorney are no longer any good for that purpose about a year ago. So, in a nutshell, what these two Opinions stand for is that a school district must admit a child, who lives with someone in the district who is either that child's parent, natural parent, or the legal guardian of the child, or some kind of court order that says that person has legal custody of the child.

Well, we just had a great question come up in Yavapai County about a month ago, and I just wrote the Opinion last week, the question being--hypothetical fact situation--father lives over in Mohave County, father has court-ordered custody of the children, mother lives in Prescott, Yavapai County. She doesn't have legal custody of the kids, but for a change you've got a divorced couple that don't fight like cats and dogs, and the father decides to let the kids go live with the mother. Must the school district in Yavapai County admit those children without charging them tuition? Well, at least in the Opinion I drafted the answer is yes. It is in the alternative. Therefore, if it is the natural parent in the district, or the guardianship in the district, they must be admitted without paying of tuition. That's what these two Opinions relate to. There is a good question still not resolved on what if the parents live in another district, because the Chapp Case that I mentioned, the Court of Appeals Case these Opinions are based upon, relate to the situation where the natural parent lives outside the State. The mother was going through a divorce in California, and the Court felt that there had to be legal guardianship, and the power of attorney was not sufficient. Well, the situation might be different if the kid's parents live in another district. O.K., don't know the answer to that yet, it's still in the mill.

(Question from the floor) Does it take a Court hearing? Answer: Technically, yes, but it's very informal, the parents agree, and if they have a notarized statement or affidavit saying "I hereby agree that 'X', the kid's aunt, or whoever, can have custody of the child" --it's very informal, the Court just simply sort of ratifies the thing, there's no problem at all, so technically yes, a Court hearing. Now, the big problem that we've encountered in this area is that the Courts, I think entirely wrong, have refused to allow parents to bring these things--per se--they kick them out of court, they don't have a lawyer, and to me that is terrible. This is ridiculous, but the Courts are the Courts, right, so they do what they want to do. So that's a difficult question, but you do have to go through a hearing now. There will be a bill introduced in Legislature this session to change that. The only thing is that when you get into this kind of thing you are trying to change that to make sure that no child is

excluded from school because of fortuitous circumstances where the parents happen to be elsewhere, and you just don't happen to have a legal guardianship, so how do you phrase it? Well, it's tough--we'll work it out. We drafted something that will take care of it, that will require perhaps some kind of not only power of attorney, but in addition, something that really shows that it happened. Now, what happened on the powers of attorney as I am sure that everyone knows, is that they were used fraudently. Now people give power of attorney just because they want the kid to go to school in that district, and the kid never lived with those people. Well, the same thing can happen with guardianships.

The Arizona Supreme Court in a case called Dailey vs. Tempe School District No. 1 ruled in 1970 that if a guardianship is set up solely, now this is real important, I think, in school districts reservation problems, to allow the child to go to school without having to pay tuition. It's no good.

Now, there's a very, very closely related issue here, and that is the question of where can a kid go to school? Now the reason this is closely related is because the situation we are talking about with the guardianship only talks to when the school district must admit a kid without charging tuition. Even if there is not a guardianship the school district has full discretion, if they so desire, to admit a child without charging tuition, but they don't have to. That distinction must be made very clearly, because it hasn't been perhaps in our opinions. We weren't asked so we didn't say so. The distinction is important now.

Going to the second question--where can a kid go to school? Well, the Opinion on that, of course, is 78-42. Why do I say "of course"? Because I think it is widely regarded as the most scurrilous Opinion we've ever issued. The Opinion says that the child can go to any school in any school district in the State of Arizona that will accept them; in other words, they are not restricted to going to school in the school district where they reside. Why do we conclude that way? Well, because the statute doesn't say straight out that you got to go to school where you reside, plus the statute that relates to that only covers kids between the ages of 8 and 16. Well, does that mean that a 6 year-old or a 7 year-old kid can go to school in any school district where they wish, but not an 8 year-old? That doesn't seem to be very logical. Or a 17 year-old? Plus it doesn't say so. So in that Opinion we concluded rightly or wrongly, and there is a lot of controversy on that, because last session we got together a bunch of Legislators, met in the House several times, had a lot of constituents in, and a lot of talking, but it was toward the end of the session and nothing could be done. Frankly, from what I've seen there is a lot of split on this. The big problem, of course, is school district budgets. How are you going to plan if you don't know how many kids are going to come? Very tough. Well maybe this Fall we will solve these questions, but I'm not holding my breath. They're too tough to solve in one session, I'm afraid--I don't know.

But these series of Opinions 77-235, 78-41 and 78-42 are very important. Let me mention a couple of other things in connection with

78-42, I think districts should be well aware of. If a child decides to go to a school district where they do not live, and the district they go to says, sure, we'll take you, a couple of things that district should know: 1) Under no circumstances will they receive State Transportation Aid. The statute on that is 15-1621, and of course that is the reason the Legislature had to go into special session is because at the end of the regular session it was tacked onto the declining enrollment bill and it didn't get passed. But it was readopted--State Transportation Aid. It's safe for another year.

But if you accept a child that does not live in your district, and when I say lives not in your district, that means their parents live elsewhere or their guardian lives elsewhere, you must know you can't receive certain benefits--one being State Transportation Aid. You do get State Aid--please distinguish the two, and I'm sure that everyone here that is at all involved with school districts certainly knows the difference. Secondly, if the accepting district by accepting kids from another district creates a racial imbalance they are subject to liability for that. And the Justice Department could step in. Some of these things have happened. We have a couple of districts that are really hit hard by this. I don't know what we are going to do about it because it is a tough issue.

(Question: "Do you have any recent Opinions relating to 16 and 17 year-olds and school absences?)

Answer: Absolutely, we have a brand-new Opinion that was issued about a month ago. O.K., let me see if I can find it in my stack here. I hope it's here, if it's not I'll try and remember it well enough not to mislead you. The number of it is 78-242, but let's see if I can find it. Well, I don;t have it, but I think that's the number, 78-242. The Opinion itself is addressed to the Phoenix Union High School District--the question that was asked was as follows: If a kid doesn't come to school can you kick them out? A pretty simple question--well, the question there dealt with children between the ages of 8 and 16. The reason that is important is because 15-321 is a compulsory attendance statute for kids between the ages of 8; why 8, I'll never figure out, and 16, who do not go to school, with an exception. The exceptions are if you go to a private school, if you've completed grammar school courses (try to put that together sometime), and some other exceptions--there is a list of about 7 or 8 things--if your parents want to make you go to work. There are some really great exceptions in there. O.K., the question then was restricted to those kids between those ages, 8 to 16. Can you kick them out if they don't come to school? The answer is no. You can't reward a kid for not going to school by giving him exactly what he wants in the first place, and that is saying you didn't come to school in the first place, so you don't have to. Now, that's a gross over-simplification. O.K., now let me go into this a little bit further because I said it was a gross over-simplification. The reason it is a gross over-simplification is that what we said was you can't kick a kid out of school or suspend a kid from

school for simply not coming to school. But if a kid doesn't come to school sufficiently so that they start flunking courses, and if there is some kind of discipline problem in addition--you know that could be almost anything--then you still have your traditional rights going into the discipline area, suspension, and that kind of thing, and would have to follow the guidelines that have been set up by the U.S. Supreme Court, as fuzzy as they are.

(Question: "Do you have any Opinion covering 17 and 18 year-olds at all?")

Answer: No, but we are issuing one that will, and the answer to that is that it's different because the statute is different, I think; at least that's the way it sits right now.

Let me go back a little bit and explain our process because I know that Attorney Generals Opinions are sometimes pretty funny things. Well, let me tell you how they happen. They happen in one of two ways in the education area. They are either requested directly of us by our clients. Our clients, or my clients are the Arizona Board of Regents which are three Universities, The State Community College Board, which has a whole bunch of community colleges, and Carolyn Warner, Superintendent of Public Instruction, State Board of Education, and every other educational entity on the State level. So, they can ask us questions. But those questions by the way are only second-level priority. What's the first level of priority? The Legislature! I mean, my goodness, they control your budget so you answer their questions first. But anyway the two categories are the State Agencies and the Legislature. That's one category of Opinions that we write in the education area. The other category, you're well aware of, governed by 15-122B, which says we have to review all of the County attorneys Opinions relating to education matters. The only strange thing about that statute is the only area where the Attorney General must review what County attorneys do. We don't do it in the criminal area, we don't do it in health, we don't do it in any other civil area or criminal area except where it's education. So anyway, if a County attorney writes an Opinion relating to education we have to review it. When those Opinions come in they are automatically assigned, unfortunately, to me, and sometimes I further assign them, the sometimes being as often as I can get away with it. Then I draft the thing, they go to what we call our Opinion Review Committee. We got 6 lawyers on the Committee, and they're pretty good. They look at it and 80% of the time, maybe 50% of the time, depending what kind of mood they're in, they'll say it's O.K., or do some more work on it. So they'll either kick it up to the No. 2 person in the office, which would be LaSota before Babbitt became Governor, Jack was No. 2 man, or back to the person who wrote it, and then it would go to the Attorney General. Well, this process, perhaps is too careful, because it takes too long, far too long--a couple of months minimum--tough to get them through all those people especially when you are dealing with lawyers, the slowest people on earth. So what the Legislature did last session, which was a great thing, and some of my favorite people in the whole world are the Legislators who voted yes on this thing, and that is the Amendment to 15-122B which said we could

decline to review County Attorneys Opinions at our discretion. Hopefully, we will exercise that discretion wisely so the Legislature won't change it back and require us to review them all again. We were really getting bogged down--we were getting 60, 70, 80 Opinions sitting on the desk, and we couldn't get to them. Not when you have that many clients, so this is a very nice thing the Legislators did for us. We are now getting caught up, so hopefully they'll come out faster, and there's a lot pending right now, including the ones that you've mentioned.

Kids, that are 17 and 18, how do you handle those children who don't come to school in that situation? They don't have to come to school, so it is their own responsibility, what it boils down to, is that you start treating those kids like adults at that point. That's where the Legislature has drawn the line--the same as college--you don't force everybody to come to class, if they don't want to come, that's fine, you take the finals, if you flunk it, you flunk it. If you don't, who cares? I guess, I don't know, I think so.

That's all the Opinions I was really going to go into, actually, there's really a couple of important ones I should mention--I will very briefly, and then I'll throw it open for questions--an Opinion Alan Kamin wrote in 1976. And this has a funny number, it has an R in it, and I don't know what the number is without the R in it, so I must give you the R number. The problem of Attorney Generals Opinions--another problem is of course that every Attorney General that comes in changes numbering systems--drives you nuts--can't find anything, don't know what it means--crazy! Well, I think when Bruce was in there we changed it a couple of times--that's the way it goes. Well, anyway, this number is R76-231--it's very, very important for the subject matter that is the basis for this Town Hall, and that is Reservation School Districts.

Well, I suppose on any reservation that's large the school district is not going to take in the entire boundary, and in fact, probably, there are areas that are unorganized. What this Opinion says, if a child, and please let me emphasize, we're talking about children, not Indians or Anglos, or anything else, if a child resides in unorganized territory where a school district has never been set up, the County School Superintendent is required to issue a CEC, a Certificate of Education Convenience for that child to go to school in an organized district. Well, what does that mean? Well, it means a big headache in some areas because of the basic problem, like how do you coordinate with the BIA. No one can answer that question. We can't answer it. What it boils down to is that any child living on a reservation can go to a public school or to a BIA school. I think, but I am not sure, but I think that is what that means. It's a really tough question--it's the kind of thing and I must take issue with one statement made earlier this morning. I do not think these are the kinds of issues that should be solved by litigation. I think we can solve them by agreement. I think there are two reasons why we

should attempt to do so: Number one--litigation takes too long. The only thing litigation has ever done is make lawyers rich. Ah, if that is what you want to do, great. Secondly, when you litigate a question, you don't win. What happens is that most judges tend to try and balance things out. They try to take the approach of someone like Solomon. O.K. Cut the kid in two, right? What that means is that no one wins anything. O.K. If someone does win everything Congress is going to change it. So I think the main point that I would like to make is that if the Commission thought it were worth while, we would be pleased to help in anyway that we can to sit down with the parties, and work out accommodations in this area. It is very difficult at this point the way it stands, because I must emphasize that based upon this Opinion R76-231, I think, what it means, any child, living anywhere in the State, whether in an unorganized territory or in a school district, is that an Indian child can choose to go either to a BIA school or a public school district. And that makes for very poor planning because who knows how the choice is going to come out any particular year. How much money should the BIA have to divy up? Well, it all comes out of the same pocket eventually, and we're going a very round-about way to handle it now.

(Question:) "Would it not be assumed that if the Attorney General's Office refuses to review a County Attorney's Opinion, that they would agree with it, or maybe I should say not disagree with it?"

Answer: Well, O.K. I love that, that's great...I love your second choice, it's much better. What we are trying to do in that area of review is to review those Opinions that are important, State-wide, more than reflecting a simple, narrow, fact situation that is really never going to come up again in another school district, or if there's something that we've written 10 Opinions on why bother to write another? What you say is do we agree with that? I think the way I would phrase it is that we would not disagree with the conclusion--the biggest problem we have with County Attorneys Opinions is what we lawyers would call "dictum". Dictum is something that is said in an Opinion that is not essential to the result. You've got a fact situation that the County Attorney is looking at, and when analyzing that fact situation perhaps a gratituous statement is made saying da-da-da-da-da-da. Well, those tangential things come up in every Opinion. In fact, if you sit down and look at any Court Opinion, Attorney Generals Opinion, or County Attorney's Opinion, and try and narrow it to what it really means, what we would call the holding--they're very narrow or they're very board, and that is traditionally the way the U.S. Supreme Court, for example, has been reviewed as a matter of history. Is the Court a strict constructionist Court, or a broad constructionist Court. Well, it is the same kind of thing that we are talking about here. If you narrow an opinion to the result, a narrow result, it isn't very narrow, it has no precedential value whatsoever, they have to be broader than that.

But what it means when we decline the review of County Attorneys Opinions is that we do not disagree with the result. We may not agree with a darn thing the County Attorney says getting there, O.K.? But the result, fine.

(Question: Regarding most famous Opinion.)

Answer: Ah, yes, our most famous Opinion. Let me talk about 78-42, because the thing that must be distinguished at all times is whether the child is entitled to go to school, or whether the district has the discretion to allow the child to go to school. It is the same question on what you have asked the hypothetical being a child not living in the Holbrook School District wants to go to school in the Holbrook School District. Your question is can a child go to school there? Or must the child pay tuition? The answer to that is very simple and very clear. It depends absolutely, entirely upon what the Board of Trustees of Holbrook School District wants to do. If the Holbrook School District Board of Trustees wishes to charge the child tuition to go to school they can do so. Why? Because the kid's parents or guardian doesn't live in the district. The only purpose for school district boundaries and what is the purpose of school district boundaries? Have we figured that one out yet? In theory, there are a couple of purposes. Number one--you got a taxing entity. Well, it may well be that that purpose is going to completely, entirely and wholly disappear, I hope, to a large extent this Fall when the Legislature takes a look at it, because the way we tax to support school districts is ridiculous. The Palo Verde Nuclear Plant, just for one example, is going to make that the richest school district in the history of the State of Arizona where that plant sits. Well, should they be allowed to reap all the benefits? No probably, I'm sure that Senator Hubbard can answer this far better than I, but probably, I would guess, to be most equitable you are going to have to have a State-wide taxing district for taxing purposes only. Kick it all in the pot, and you divide it up, and make it fair. Now, I don't know,how you are going to come out on this... it's a tough question. We got so many taxes now you can't figure out who you're paying. At last count, just on the State level, we had something like 35 different taxes. How many can you name? Well, there's the State sales tax, the Income Tax, there's the Property Tax, well, you've got three there out of 35. There are a whole bunch of others. It is so complicated, so totally screwed up, we've got to do something about it. I hope we do.

The point then on school district boundaries. What is the purpose of them? Well, one is to make a taxing unit--maybe that purpose will disappear. What is the other purpose--it was a historical accident. It just happened, and they are going to stay that way. Why are they going to stay that way? Well, there's a very good reason. Take a look at 15-402, 403, 404, 405, et seq., which talk about how you go about changing school district boundaries. You can't do it. Not easily. It's almost impossible. O.K. So what we have is an historical accident. You happen to live in this district, right across the street there is another district, you can't send your kid to school over there without paying tuition. I don't know--tough question.

You know 78-42, let me go back a minute to a real important Opinion. What you're doing if you don't allow a child to attend

school wherever a school district will accept him is essentially discriminate against people who don't have as much money as other people. Why? Because if you want to live in any school district in this state and you've got the bucks to move there you can do it. But there are some very basic questions on this, very tough questions. I don't know how the Legislature is going to solve this, I certainly don't envy them--it's going to be a tough question to solve among others.

Any other questions, or should we go...yes, sir?

(Question:) "Who has the responsibility in a school district to see that all children go to school under the law--is it the public school, the BIA school--what?"

Answer: Let me back up. Anything that I have said here today has absolutely no application to a BIA school. We don't write Opinions for BIA schools--the Field Solicitor unfortunately is stuck with that job. We get into conflicts, we talk to the Field Solicitor occasionally. They're nice people--we get along, but nothing applies to BIA schools. O.K. Now, your question again?

(Question:) "The question again, in a school district, who has the responsibility to see that the children go to school?"

Answer: Technically, the Board of Trustees. In fact, the administration of the school district has really no authority at all, except in one or two minor areas. I am talking about statutes. The only authority administrators have is by contract with the Board of Trustees with some minor exceptions. O.K., you mention the fact of the principal or administrator suspending a child, that's on the books. The only other place that administrators are mentioned in Title 15 has to do with principally that they can have contracts more than a year. O.K. And then of course in the tenure statute.

If anybody else has any questions we can handle them informally, say at the bar, wherever. Thank you.

MASTER OF CEREMONIES, MR. WILFRED WHATONAME, COMMISSION MEMBER, INTRODUCED THE BANQUET GUEST SPEAKER: <u>THE HONORABLE ARTHUR HUBBARD, ARIZONA STATE SENATOR:</u>

Thank you, Mr. Whatoname, Commissioner Chairman, Secretary to the Executive Director and Friends. I am not going to talk very long because I think there is a chance for everyone to get a good night's rest, and you're going to have to fight snow going out tomorrow, and you'll need all the energy you can work up.

I was very glad that the Commission of Indian Affairs selected the topic of financing of public schools as their one for discussion here. Unfortunately, not enough of the people who would really be participating

in spreading the news about how they thought or think that their money should be used in giving knowledge to the young people on the various reservations, are here. But I am glad to see you that are here, because that indicates you are really interested and anxious that the public schools on Indian reservations be of the very best. I have a little piece written up here I would like to read to you.

There are few things more important to our society than the education of the young. Through the experience of education, the young learn the values and skills which enable them to act as productive and responsible adults, who are able to benefit themselves and the community as a whole.

Young people are, as many have indicated, the greatest resource of our community, of our country, and the young people are very knowledgeable, more so than many of we older people think they are.

I remember one of the preachers at Ganado talking to some of the young children, asking what they thought of themselves. And he came to one of the little girls who was about 6 years old, and he asked her, "What do you think you are?" Well she said, "I'm good, I'm good. God doesn't make trash!" So you see they really understand what their life is all about.

I believe that people have to love themselves before they can love other people. It is when you love yourself that you understand what it means to be a loving person to other people.

A large part of the education which nurtures the social and intellectual development of children takes place in the homes, schools and the church. It is both inevitable and appropriate that much of a child's early education, spiritual and moral formation occurs in the home and the church with the parents providing most of the guiding influence and direction. I think it holds true that the development of our country was the greatest influence that kept people to the grinding stone--their nose to the grinding stone, so they developed a strong country, not only just physically, but morally. Maybe that has reached its peak, I don't know. It may be a beginning of deterioration--we hear so much about people wanting to take advantage of their fellow men.

At the present time, I can begin to see changes taking place on the Navajo reservation and the other reservations in this State. It used to be that people walking down the highway, going to Gallup, New Mexico, or Flagstaff, Arizona, were never passed by, whether it was by people in a wagon or a person on horseback. They gave other people a lift. But as time has gone by, and our young people have begun to be instilled with the philosophy of free enterprise, where you think in terms of money and time, I see even old people walking down the streets, down the highways, and the pick-ups go by them just as fast as if they weren't around at all.

When a child reaches a certain age, he leaves for a time each day, the protected environment of his family, and begins to attend school. The main emphasis of school is quite properly the mental and intellectual development of a child. But the very nature of the education process is that schools are also a place where the moral education of the child continues and the teaching of the home is supplemented by the ideals which are taught by teacher and schoolmates. A lot of our children are greatly affected by the peers that attend the school with them. I know our young people who have been away to schools like Riverside, California; Brigham City, Utah; Carson City, Nevada, and Chamawa, Oregon; Fort Sill, Oklahoma, and Chilocco, Oklahoma. When they came back to the Navajo reservation the many things they had experienced over there could be seen by the changes that begin to take place in the older people's minds. The youngster didn't like to live in a hogan, so the father and mother sacrificed a great deal to put up a little shack or frame building to live in. As time went along, and the public schools became established on the reservation, the change was that from the boarding school to that of the public school, because the parents began to realize that as the children learn they also were learning.

Schools, therefore, play a crucial role in the overall development of children as they grow toward adulthood. If our schools are inadequate, or if the wrong influences come to dominate in schools so that the curriculum is faulty, the kind of human beings which the children become may not be the same kind of person which they should have become. All of this is leading up to the fact that I think a great deal depends on us individually as we watch the young people learn and develop. If they are not developing the way that we feel they should be, then we are not providing the kind of atmosphere, the kind of instruction which they should be receiving, to develop to be the kind of adults that we believe they should become. Schools which do not assist children in developing their potential to the fullest, are not properly serving the students and are betraying their obligation to the community.

Public schools are one of the best, I think, in the country--that is the public schools of Arizona. We, as citizens, owe an obligation to see that our schools are as good as they should and can be. We do that by working directly with local school districts to influence proper direction. Many people criticize schools, but they don't participate in the Board of Trustee meetings, or any other meetings that are called to develop proper school facilities. We are fortunate that in this State the primary guidance of our schools is left to local control, and that local control is exercised through the school Board of Trustees. The people who serve on a Board of Trustees are residents of the school district and are elected by other residents of the school district. As a governing body of a school district, the responsibilities of the Board are very great. Permit me to mention some of them. The Board of Trustees is charged with developing and enforcing a course of study and selecting the books that will be used in that course of study. The Board must visit every school in the district and carefully examine their needs, condition and management. The Board purchases all materials and equipment necessary to operate the school. The Board must authorize the

construction and improvement of buildings. The Board must also see to the discipline of students, and provide adequate supervision for all students' instructional and recreational activities. Obviously, the responsibility of the local school Board of Trustees is very great and this is all to the good. The responsibility and authority which each Board exercises is the best way that the directions the parents wish to see the school pursue, are in fact pursued. And of course, this is especially important to the Indian people with our unique culture, which we wish to protect.

None of you would be here today if you did not care about the excellence of our schools. Yet, I cannot help but remind you that only our active efforts will keep our schools on the proper path.

The responsibility of our school boards is great, and that responsibility will only be met if the right people serve on school boards. The best people will not serve on school boards unless they are first convinced to seek the office. Therefore, we must all make every effort to seek out those who are best suited to serve on the boards by virtue of their interest, and abilities, and persuade them to run for that office. Then we must follow through and assist them in winning the election, and the responsibility of the community does not end there, for we must see that those who are elected to school boards are kept informed of the needs and wishes of the community. A lot of us think that once someone has been elected, the responsibility for a good active role is up to the individual. We forget that we are all related one to the other. We don't live to ourselves, and if we don't help a person elected to public office after that person is in office by keeping them informed of what we feel, the needs of what our area are, then we are not fulfilling our individual duty. We are not doing what we should as citizens of our community.

Unless we all work unselfishly towards excellence in our schools, we will not have excellence. That is both the burden and the great advantage of local control over education. In our State, here the forefathers of people tried to develop a Constitution that would be beneficial to this State through the years--felt that local control was very necessary, because every community has different needs, and unless they educate their young and develop them to live in that community, and know how to survive through whatever difficulties that particular community puts up as obstacles, it will not be good. That's why every Board of Trustees in the various communities was given the responsibility of seeing to the kind of curriculum that particular school which they were over-seeing, or developing policy for, had as much freedom to act as possible.

Yet, as great as our community authority is, it does not exist in a vacumn. The laws which guarantee a voice in school affairs are State laws, and much of the money which we need to run our schools comes from the State in the sense it is appropriated to us by the State's Legislature. Clearly, we must also take considerable interest

in who is elected to serve in the State Legislature, and the remark I have just made concerning the need to recruit and support the best people for school boards, also applies equally to the State Legislature. Once Legislators are elected, you must keep them informed of your needs, and be aware of what developments are occuring in the Legislature, so that you can oppose those bills which you judge as harmful, and support those which you think are good.

I am bringing in the role of the Legislature because everything is tied together. In our schools, when I went to school, the subjects were taught 45 minutes in one room, 45 minutes in another. We had Civics, Physical Education, Arithmetic, Reading, so on through out the day. No one told the classes how these various subjects were related to our surviving on the Navajo Reservations.

In the hogan, my grandfather in the evening after we had supper, we'd sit in the dark, with just the light from the fire giving us light, and grandfather would start talking. He'd say, "You see the fires in the middle of the hogan, here. It keeps us warm. It is also the means by which the food which we have just eaten has been cooked. But to keep that fire burning, I have to build this hogan near the source of the fuel. I had to decide where we could easily get the fuel for that fire. There's just not wood to burn, there's something called coal, and there are other items that will burn and keep you warm, and cook your food. So you have to decide on where you want to locate. The food we ate comes from the mutton of the sheep that are out in the corral, but those sheep have to be taken care of. You have to let them out each morning, take them where there's water, feed. We have some potatoes, and we grow them in a little patch over here. But I have to get up early in the Spring, plow the ground, and prepare the soil, so we can plant potatoes, and then they have to be harvested. All of these things are not from just one place. To survive here at this hogan, where we are, there are you, my grandchildren, there are your aunts, your uncles, and here's your grandmother and I--we are not real close together, but I can go out of the hogan and shout, and those next door will come around. We live close enough so we can hear one another. We help one another. Your uncles come over and help plant, we plant corn, your uncles and I, we plow the ground, your aunts, your grandmother, they put the corn in and they plant it. We all work together to plant, and also harvest--do it altogether so that no one is left out."

He related all the activities to the fact that in order to survive this, at that location, everybody had to help one another. These are some things that I think our education facilities might take advantage of and help youngsters to get ahead a little faster, if we relate things one to the other as to how they live. In our Government set-up, the Legislature and Government officials set policies which are followed through by various levels of government on down to school boards, where they individually exercise an office, operate in each area, so that they can provide the best type of education for youngsters in that particular area to survive.

I will explain some parts of the Legislative process so you can be more effective in dealing with the Legislature. The Arizona Legislature consists of two House, the House of Representatives and the Senate. Each House is organized into a number of subject matter committees which consider the bills introduced into the Legislature by Legislators and by these committees themselves. Committees hear and take testimony on bills and vote on whether or not to send bills on into the Legislative process, so that they can be considered by the entire Legislative body. If a committee vote is against a certain bill, it dies in that committee. If a committee chairman refuses to schedule a bill for committee consideration, then the bill is dead for that session. So you see, the work done by a committee on a bill is of crucial importance for the success or failure of that particular piece of proposed legislation.

The foremost important committees for purposes of education are the Senate Education and Appropriation Committees and the House Education and Appropriation Committees. The Senate Education Committee has 9 members, while the House Education Committee has 15, as the House has 60 members to the Senate's 30. House Committees have more members. The Senate Appropriations Committee has 14 members, and the House Appropriations Committee has 15 members, but will be expanded to 17 members this coming January. The Education Committees of each Legislative House deals with issues of standard policies concerning education--bills which affect the operation of schools and school districts or require the offering of certain types of courses would normally be considered by the Education Committee. Proposals which require State funding, as well as the general appropriations to all levels of education, are considered by the Appropriation Committees. Also if a bill makes changes in programs which involves State funding, it will normally be considered by both the Education and the Appropriations Committees. If a bill is to be considered by committees, both State laws and the rules of each House require that advance notice be given. As a result, Committee Chairmen publish agendas of the bill which their Committees will consider on a specific date in advance of the meeting, and this is one thing that the law has stated. These advance notices must be 5 days ahead of the meeting.

Again, as the fate of bills depend on the treatment given them by Committees, which can not only pass or fail a bill, but also significantly amend it, it is important that you stay in touch with what committees are doing.

Copies of Agendas are published in the State's major newspapers, or you can contact the Committee Chairman's office for details.

This Legislative session, which begins in January, the Senate Education Committee will be chaired by Senator Anna Lindeman, the Senate Appropriations Committee by Senator John Pritzlaff; the House Education Committee by Representative Jim Cooper, and the House Appropriations Committee by Representative Tom Goodwin.

When you hear of a bill that you think is important enough to oppose or support, inform those who share your views, then make every effort to have as many people as possible express their opinion to the members of the Committee which will consider the bill. You can do this by phone call or letter, but best of all by testifying before the Committee when the bill is heard. Every Legislator who is genuinely interested in serving the best interests of this State, will be glad to hear from you, whether or not you are a constituent. This is very true, no matter what political party the members of the Senate belong to, they are genuinely interested in the best operations of Government, schools, and all the other activities of the State in benefiting the people of Arizona.

Your interest is especially needed as the State starts to grapple next year with rewriting our school finance system. I have tried to emphasize that our system of education in this State is a fine one, that allows for a great amount of flexibility in meeting needs of local communities, and helping to protect our Indian heritage. But I have also tried to stress that it is a gradual thing, depending on a great deal of community effort and concern to survive and achieve excellence, and a great deal of coordination and cooperation among all levels of Government.

My message is simple--if we all work for the best of our schools, we have every chance to achieve. If we do not, so we will likely achieve the worst. In either case, we will get what we deserve. So I am hoping that each one of you through the coming years will put forth every effort to see that schools on reservations, whatever they might be, BIA, public schools, or contract schools, or the mission schools that might be operating on reservations, get the best of our attention, because it's only with our support can the best be gotten out of the efforts of teachers, as they can only pass on to the young people what the community wants them to pass on to the children.

I thank you.

THURSDAY

DECEMBER 7, 1979

CHAIRPERSON LEONA KAKAR OPENED THE MEETING:

Good morning everybody! From the looks of you guys I think everybody took Senator Hubbard's advice and went to be real early to get started bright-eyed and bushy-tailed.= With that, I'll turn the program over to Mr. Pattea.

MODERATOR CLINTON PATTEA:

Good morning, again. I guess we are getting close to a Merry Christmas, and I suppose Santa Claus will be coming down pretty soon

from the way it looks outside.

The roads are open to McNary and Showlow, but you are going to have to be a little cautious and drive slow.

I'd like again to say to you how grateful we are that you showed up. I know that Earl Havatone came all the way from Peach Springs--it took him all day just to get here yesterday. And that's a long, long drive. They made a lot of effort in getting here--it was slow driving, but they got here, and there are others that arrived yesterday, and like I said yesterday, Wesley Bonito and Ronnie Lupe spent all day yesterday trying to find a way to get up here. They made it also. At this time, I'd like to call on both of them--Mr. Lupe, then Mr. Bonito, in that order, to express their views.

MODERATOR CLINTON PATTEA INTRODUCED MR. RONNIE LUPE, CHAIRMAN, WHITE MOUNTAIN APACHE TRIBE:

I am sorry I couldn't be here yesterday, but irregardless of whether I am here or not, you are always welcome here. As you can see, we have plenty of snow, so if you want to take some back home--that's okay.

Yesterday was a rough day for me because that storm came in pretty fast. I turned around at Hawley Lake, and when I was going back to McNary, that's when I met the snowplow coming this way. By that time I couldn't turn around--it was getting pretty bad, so I just went back to Whiteriver. I had to go back over there anyway, as one of our former Tribal leaders passed away, and yesterday was his funeral.

I'd like to say I'm very appreciative of Arizona Indian Commission to once again to champion the cause of the Indian problem, which is education. The Commission has held a number of meetings which directly affect Indian Tribes across the country.

Today, and yesterday, you talked about Indian education. We here on the reservation, are very much involved in the education of our children. Wesley Bonito will briefly cover some of this as he is more or less the head of education on our reservation. He'll brief you on the comprehensive plan that we have devised which is short-range and long-range for the White Mountain Apache Tribe.

I think all of us understand what education is as far as Indians are concerned. It is again a political football, insofar as the State and Congress are on the scene again through H.R. 15, which is the elementary-secondary legislation, and it mentions of course, specifically Indian education, if you're familiar with that bill, which revolves around local control again.

Indian education has been kicked around for a number of years, since I was elected on the scene of Tribal leadership. Some of us have been consultants for the Bureau of Indian Affairs for sometime, back in the early 60's. We advised them as to what we thought might be best insofar as policy and regulation changes. And today, here we are again, the same thing. Even at that time, as I recall, we recognized drastic inadequacies in practically all areas of Indian education, whether it's a boarding school, public school or otherwise. Staffing and funding were plagues at that time and today the same holds true. There are complications involving funding and the Indian population growth is always a problem.

At that time, we mentioned the fact to the United States Government, went on record several times indicating that the United States Government has never honored its promised to the Indian people. They were suppose to have provided us with a very sound, basic foundation for educating our children. Generation upon generation and we have not seen that type of education yet, and we still demand today that the United States Government honor its promise. It's in their laws and constitution that they honor the Indian people.

I am really sorry to hear some of these tribal leaders, or spokesmen, within the Interior Department, "saying that Indian people should not rely on the dominant society for a handout". We are not asking for a handout, we never were. We don't want a handout--we want the United States Government to stand on its word, its given word. The United States has broken its promise in a number of ways and today, that's why we are here again.

I'm proud of the Commission that they recognize it, and I think we should address ourselves to the issues, to school administrations, whether it be public, boarding schools, or Bureau of Indian Affairs. I daresay, that the school administrators should readopt the old Ten Commandments' policy such as discipline, classroom control and administrative control. This has long been overlooked. Administrators are now just considering "when am I going to retire", and forgetting about their main goal, their main responsibility--educating the children, whether they be Indian, or other ethnic groups. This is a very serious problem facing the Indian people today, all of us, due to the lack of discipline. We hear of many problems everywhere,--boarding schools, not only within the Phoenix Indian School, but everywhere. Severe problems such as no security. You can't even tell if you are talking to a student when you go on a school campus because some of them don't belong on a school campus. These are a few of the problems I think we should be looking at, as well as H.R. 15.

Here on our reservation, as good as we might be in recognizing some of our Indian school problems, we have three school systems here which are very evident--public school, Bureau of Indian Affairs boarding school for elementary, parochial school, and we have Northland, of course, a college, which Wesley will address in more detail. So I can't say whether boarding schools or other schools should be done away with.

My personal feeling is that we need all of them as well as more money and staff. The inadequacies of the school facilities where our children go, are really unbelieveable! And I've been to all of these schools.

Today the Indian population has grown. Here on our reservation we need more space and more schools. Adam Lupe, who is the President of the local public schools, is now in Phoenix battling for a new high school. We have a high school but it is inadequate. We have a gymnasium, but just a little bitty one. Here we are in modern times and money's pretty tight. These are the problems we are dealing with today on our reservation.

Our main goal is to gear towards, what we call, the main thrust of our administration today and that is self-sufficiency. We are aiming our children towards that. This means hanging on to our ways first--being Apache, practically every one of our children are bi-lingual. Most of our people, the old folks, are still Apaches, they don't speak English, so we are creating a bi-lingual outlook for our people.

Our reservation, in comparison to some of the other reservations, has vast resources, untapped resources. We have a large timber mill which is our major source of income. Then the terrain itself offers many opportunities, such as here at Sunrise Park. We need management, we need skilled people, we need managers in timber operations, we need managers in the cattle industry, and also physicians--we're building a brand-new hospital; we need housing and construction people. All of these paraprofessional and skilled professional people to run and direct our people and reservsation. We are emphasing this in the council on down to whoever is teaching in the classroom. This is more or less our policy insofar as education is concerned. We're hurting just like any other tribe--we need more funds and more staff to initiate some of our plans within the comprehensive plan, college vocational training, right here on our reservation. By reservation, I mean from reservation to reservation--there's certain philosophies and economies that are variances of difference, as well as people's belief.

On your reservation, you might not need a sawmill manager. Your needs might be in agriculture.

These are the things that we are trying to understand insofar as Indian education is concerned. But basically we want to build a strong Apache individual, a self-sufficient individual.

That white cap over there to the right is the White Mountain. It's sacred to us. Annually since time began our people make a trip over there. It's our way of life, and so it is with other tribes across the country and we don't want to lose it. We will do anything to protect our resources, the land base and our people.

Once again, thank you for this time.

MODERATOR CLINTON PATTEA INTRODUCED MR. WESLEY BONITO, PRESIDENT, ARIZONA INDIAN EDUCATION ASSOCIATION: "IMPACT OF INDIAN ORGANIZATIONS ON STATE EDUCATION"

I'd like to talk to you a little about what I was asked to talk to you on, that's the impact of Indian organizations on State education, and I was also told to write my comments down, so they could take them with them. So Clinton, I will have this handed to you when I finish.

This opportunity you have given me to talk to you on the impact by Indian organizations on the State education affords me much personal pleasure and honor. I am deeply interested in one of the great challenges of modern education--the Indian education, an education for all children. What is an education? Education is a continued process from birth to death in which the human organism acquires appreciation, attitudes, competency, knowledge, skill and values related to its adjustment to complex physical, mental and social forces in its environment. I like to quote my Grandmother: "Education is the house of knowledge which affords the individual to accept and appreciate what is good in life." This has been repeated to me over and over here on my reservation in a wickiup. Not to turn the clock-hands back, but use it as a guide. Our great grandfather taught us that this is our land, our hunting grounds which from rising sun to setting sun. Our Heavenly Father blessed us with a land with many good things. The wild game skins served as a shelter and clothing, the turning season with plenty of foods. He did all of this to us because He loved us. We protected these gifts. For centuries freedom, happiness, and respect for our fellow men were our way of life. Poverty, tax, leases of land, policies, drunk, jail, court were not our ways, if any. We treated each other like we, individuals, were treated. The American Indian had a great work, and were a very happy, free people. Yes, this was the Indian way of practicing for life. Today, we Indian people are recognized in the mainstream of life. The Indians know within his own power he can solve his own problems with his own methods. The methods coincide with the problems that he has been confronted with. This statement that I have just made ties in with the contrast of fast-moving, modern era of education. The moving is so fast that the society can travel at 1,500 miles per hour, so fast that moon orbiting and back is possible through computerization and automation. What a citizen of the next generation will be, our leaders of today should become concerned, and will have a large part in shaping and setting the education philosophy, goals, objectives, implemention and evaluation for accountability and responsibility.

The Government has instructed us, or has warned us, that one of these days you will be running your own affairs. I did not believe this, but the time is here, and I wondered how well are we prepared to manage our own affairs? This leads me to the discussion on the general feeling of our people on State education without any criticism toward any organization educating Indian children, or comparison of school systems, but simply on the education of Indian children, and adults of all levels, and all ages.

As you are aware many of the Legislation changes are being initiated--reference to Indian education, and I'll go back to 1950. Some of the Legislation is the P.L. 280--this was announced to us, and all of the tribal leaders, I'm sure, are aware of P.L. 280. And then also P.L. 874, which was talked about, I am sure, yesterday, along with P.L. 815, Johson-O'Malley, Title IV Elementary/Secondary Education Act which ties in with the LEA and non-LEA, P.L. 638, and P.L. 95-561 (H.R. 15). All of these Acts are laws with the appropriation attached and means educational funds to meet the education need of our children. P.L. 81-815 and P.L. 81-874 are designed to aid states which suffered from the Federal impact of military bases within their borders and the educational burden that this created, were expanded to Indian reservations in 1958. P.L. 81-874 is designed to supplement the general budget of school districts with Indians or other Federally-related populations. Funds dispersed under the Johnson-O'Malley Act are designed to make use of special educational services for Indian children. Many of the Indian people, if they are not aware of it, should be informed that these separate laws are set there for the purpose of serving Indian kids, and Johnson O'Malley should be told about to the Indian people, because Johnson O'Malley should serve the Indian kids. There are two parts to Johnson O'Malley: Basic support and supplemental funds which can be contracted. The supplemental funds can be contracted and used by the Indian tribes, and if they wish to, they can subcontract to local schools to serve Indian children.

Now, the State and the Federal Government and the tribes do have some obligations in educating all children. It is written in each State Constitution provision which guarantees an education to all persons within that State. Although there has been a general right of Indian students to attend public schools, assimilated goals would not be accomplished unless the State has the power to compel attendance at those schools. To improve this matter the States were given jurisdiction, Congress authorized the Secretary of Interior to permit the States "to enforce compulsory school attendance laws against Indian children and parents." This is found in 25 USC Sec. 231. The Secretary is required, however, to obtain Tribal consent before the compulsory attendance laws are applied. (See in re Colwash, 57 Wash. 2d 196, 356 P. 2d 994, 996 (1960) for an example of such a resolution.

And I'd like to address the resolution section. The reason I bring the attention on the resolution has many factors, such as, and these are important: How are the duties of the Federal Government and of the State Government affected by such a Tribal resolution giving consent to State jurisdiction? I do not have the answers to these questions. Does the resolution mean that the United States is relieved and the State assumes the responsibility of providing adequate school? What voice should the Tribal government or local Indian communities have over the content of the curriculum? To what extent is there a right to have the language and the history of the people comprise an integral part of the Course of Study?

There are probably more questions, but these are something that we need to consider in working with school systems where Indian dollars and Indian people are involved. To assure ourselves of taking the right road, to take risks, we must be reminded of the severance of the clean line between reservation and State and that it has its cost in terms of tribal self-government and the exercise of Tribal power.

One of the most important struggles facing public education is financing and who is going to foot the bill. Another important issue is the equitable distribution of funds and who should control the fiscal plan of the distribution. With this broad overview of where we were, where we are at, and where we are going in the area of education through the public school system, I feel our Indian involvement, development, reaction, and sensitivity to our children's educational needs must be our Number One priority, as we know over 75% of our children are attending public schools. And I assume the objective is to transfer most Indian children into public schools, as rapidly as possible. If this is our concern, which I strongly feel you do, then we must raise questions to the public schools to see if they are meeting the needs of our children. What are their philosophies? What are the desires and objectives of the schools where our children are attending? Do we want local control? Do we want State or Federal Agent to set up the plan with the Fiscal?

I want you to be assured that you do have a representative on the Arizona School Board Association, who was recently appointed to the School Finance Committee, and who will be working very closely with the State Legislature on school finance and taxation. This Committee will be submitting recommendations to the State Legislature's Education Committee when they convene after the New Year, 1979. I would like to ask for your input to help me to make the path good for the Indian people in education in the State of Arizona.

Since it is the general feeling of our people to educate our children through public schools I strongly urge our leaders--community, Tribal leaders, State leaders, and so on, to educate our parents to become more involved in school affairs, such as elected Boards of Trustees, PTA, Advisory Committees, Classroom Volunteers, and become a strong advocate for our children. This is really coming from my heart. If we want control, local control, I strongly urge the Arizona Indian organizations and Tribal leaders to help us, because the road is not too clear--it's rough. But it is better to take the risk than leaving it to somebody.

There are a few things that I mentioned, such as local control. If you do not run your own show somebody will do it for you. Do you want the State to do it? Do you want the Feds to do it? I don't think that's what we want. We do want to control our schools at the local level. This I would like to leave with you.

Other things that I like to bring up at this time is what the Chairman mentioned--the Comprehensive Education Plan that our Tribe

developed, is following the concept of Congress, 1971, in reference to the GAO report. They want accountability and responsibility to come from BIA. BIA was to draft a plan to meet the need of Indian children, but they have not come through with it. That same concept was used by the White Mountain Apache Tribe to develop a long and short-range plan. We canvassed the entire reservation, we talked to all of the school systems, and we developed a plan from the survey and data collected. This plan is so comprehensive that it addresses everything from "0" up to college. I have a copy for each one of you. I would like to ask for you to write to me and see what you think of it. This book here is a Bible, I can take this to the State, I can take this to Congress, because that is what they want. They want <u>facts</u>, they want information, to support you financially, and in many areas this is not there. But we have this, and I'd like to share it with you.

Also, if you were to take over the school system, or have control of that, one of the things we found out that many schools do not have is a philosophy. If the entire school system does not know what their philosophy, objectives and goals are, how are the teachers going to educate our children? We need to establish that philosophy, objectives and goals, as Indian people living on Indian reservations and set up what we want for our children. We should develop a minimum standard as a policy. This is what we want, in the State of Arizona, but the Indian tribes also say "let this be supplemental to what you are giving to my child", such as Tribal government to be offered at all schools on Indian reservations. My own kids do not know what it takes to be a Tribal politician or serve on a Tribal government. They don't even know what's on my reservation, but they know a lot about the State government, the Federal government, and I'm very concerned about this. This is why I want us to tell the school system this is what we want as part of the curriculum.

On the Fort Apache Reservation what are the needs? Why are we sending these kids to school? Let's keep supplemental information available to all classrooms. It could be a parochial school, BIA school, it could be a public school. We want this done. How do you do it? Through your Board, your Advisory Committee, your PTA system and through your Tribal government. But if they are worrying about money that belongs to the Legislature, because under the State law the Constitution provides that all persons within that State are entitled to free public education, let them worry about that money, but when they do give it to us, you take control of that. This local control, and taking away is sort of floating around. If you do not develop your own need someone will do it for you. I hope it will not be done for us and that we will control our own schools at the local level.

I have talked to the Arizona School Board Association yesterday, and they are very interested in wanting to help our Indian people; they said to me "we will assure you that Indian people will be represented at the Finance Meeting".

And another important area that we need to address is the 1979 Census Survey. I went to a meeting where I was told that the 1980 Census Survey format had already been set up. I want to be serious, and I want you to be serious with me. In the 1980 Census Survey there is a committee set up for the Caucasian, a committee for the Chicano, a committee for the Black, but the Indian people are not represented. If they are, they are through the Bureau of Indian Affairs, or Public Health. We have been criticizing people, we have been pointing fingers at people--here's our chance to get ourselves into that, so we could take a good count. 1970 Census of my Tribe is very inaccurate, but again I still criticize some people. This coming 1980 Census I want to make sure that we get a good count of how many White Mountain Apache Tribe are on my reservation. I would like to bring it to your attention. We need a resolution from the Inter-Tribal Council, Commission of Indian Affairs, Tribal organizations, that we want our input into the 1980 Census. What does that mean on Census? It means dollars. Everybody is working with dollars, some kind of numbers, and this is where we need your input.

Then in the format that they use I was told it is one page for Caucasian, one page for the Blacks, and the Chicanos. Additional section of pages requesting unnecessary information that we don't want has been developed for us, and it was not done by Indian people. Why do we have to have all those many pages, when not required for others? We want to know who put that in. They talk about how many times was I fired from a job, how many families do I have in my household, how much am I making? Are they asking those same questions of that person on the other side? If not, why? This is why I'd like to have the input of Indian people when we start counting heads. If we don't someone is going to do it, and the inadequate result will surface again.

Another important issue that I would like to bring out at this time is a new legislation that has come out. If you know about it, I'd like you to raise your hand. How many of you know of the Sunset Legislation? Raise your hand. O.K. How many of you Indians know about Sunset Legislation?

I will read you what it says: "Sunset Legislation" (by the way this was introduced by Carter's administration). "The intended proposed Federal Sunset Legislation to be enacted by next Congress may have a very damaging impact on American Indian Tribes. In concept, the Sunset Legislation would terminate, with few exceptions, all Federal programs to all its citizens unless these programs are specifically reauthorized by Congress every 10 years. For example: Program affecting treaty obligations and claims, Indian health care service, and the construction of Indian irrigation systems, buildings, utilities, roads, would be terminated automatically, unless Congress acts to continue these." The dangerous part, the real danger, on October 11, 1978--the Senate passed S. 2, the Sunset Bill, by a vote of 87-1, and that one person--he's our friend from Arkansas. Look at the kinds of friends we have up there! 87 to 1! The measure died because the House failed to act owing to the rush of other business in the closing day of

the last Congress. 87 to 1. The bill that Senate passed would have required that all programs, including those now permanent, with a few exceptions noted below, be specifically reauthorized at least every 10 years in order for the program to continue. In general, in the case of Indian programs, this review would be undertaken by the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs.

My fellow Indians, this was introduced by Carter Administration. Here are some of the things that they are going to be working on: Elementary, Secondary and Vocational Education Assistance to public schools, general government, Alaska Native Funds, Navajo and Hopi Relocation Commission activities, Indian Trust Accounting. That's the first year. Second year: Federal Judicial activities, the Hearing and adjudication of Indian claims. Third year: Social Service - Grants for Economic Development and Management Improvement to Indians, Federal Land Endorcement Activities, Indian claims. Fourth year: Health Care goes down the line. Fifth year: Area and Regional Development, Indian Services, Tribal Resources and Development, Navajo-Hopi Settlement/Operation of Program, Construction of Irrigation System, Revolving Fund from Loans, Miscellaneous Appropriations Claims and Treaty Obligations, Indian Loans, Housing Project Revolvement Funds, Trust Funds, Land Use Planning Activities, and furthermore this might come up again, beginning of the new year --January. But my declaration to you people, leaders, the wheels, take a chance, do something about this. Write to your Congressional people.

There's another area that I would like to bring to your attention while we're talking about the school system in the State of Arizona. It has a lot to do with the dollars and where this money is going to come from. I will be sitting on the School Finance Committee, working with the Arizona School Board Association. We are talking about taxation, like it or not, and we're talking about equitable formula. What does that mean? Somebody is going to set it up for us, and if somebody starts controlling that money, we will not have that input that we like to have at the local level. And we don't want that. We want local control. And if the money is coming from the Federal Goverrment to help Indian people on reservations shouldn't we have something to say about that? If we don't, somebody is going to, and also about the comprehensive plan. That is your tool, that is your Bible. I urge each and every one of the Indian tribes to develop a piece meal basis. We need to set up short and long-range programs. What will it cost? Right now I am looking at a new school. Somebody told me it was impossible. This book does not cover that portion of the construction needs as our work on the plan was done later. The new facilities, according to our plan, will be too small, as our enrollment is going up in terms of number of kids enrolling in schools. I challenge everybody, I challenge myself, and it really scares me--I want new schools, but I don't want my kid bused across the reservation. I want a neighborhood community school, and I want more money. And how do I justify my position? Here it is, and this is what I like to urge each Tribe to do.

Another area that I am very concerned about is a section of H.R. 15. How many of you have the copy of H.R. 15, the law to cover us Indian people?

H.R. 15 or P.L. 95-561 is the book that addresses Indian people in the field of education Title XI. The reason I brought this up is that there is a Bureau Area-wide meeting on education from the Education Office in Washington, and here is the overall H.R. 15. Now, we need somebody in the State of Arizona at the local level to review all this legislation that is coming out from the Washington Office or the State Office. We are not attorneys, we have limitations, but this comes directly to me from the Washington Office, HEW, and says, "Wes, here's a copy of what you wanted", but Wes cannot digest and try to explain to you what they meant in this book. We need somebody with a legal mind in the field of education to analyze this and inform us what it means, in 2 or 3 pages, down-to-earth information.

In another area that concerns me, if we are going to be working together we must stick together--not criticizing or being negative, but we need to have an autonomy that represents all of us in the State of Arizona and Washington in the field of Education. We need somebody that could be a clearing house, that could address all issues,,Kindergarten, elementary, high school and at the college level--somebody to be an advocate for the Indian people. We don't have that. The State Department of Indian Education does some, but it is not enough, and there is a group called Indian Education Association working directly with Johnson O'Malley. It is not enough. We know we all have needs on the local level, but somewhere we should have a clearing house to review all of these issues that are coming down from Washington and the State. What does it mean? How does it affect us? We don't have it as such, so just recently, because of my concern over all the Indian people that I work with, my people in Arizona, I said, "Hey, let's start something here". So we started a project called EAAT--EAAT stands for Education Association of Arizona Tribes. And this is what we are trying to start--is to set up a clearing house where all of the information in reference to education, dealing with Indian people, be reviewed for comments and recommendations. We want to establish a clearing house where all of these are channeled through so they can tell us what is going on at the local, State and national level. Right now we don't have anything, and the only time when we come together, seriously, is when something is going to happen, when we are almost about thrown over a cliff, then we say "wait, wait! Don't throw me!" Well, what do we do before that, in a white man's world, what they call pre-empt. I don't know what that means, but I think it means that this is done because you have not done so, but I'd like to take a position now. We need to do this, because they are not doing it, and this is what I am addressing myself to. Everything BIA or anybody who has not done for me I am going to do it myself, and if anybody gripes about it, tough luck. They have not done so, so I do it my way within the framework.

My fellow Indians, I'd like to ask for your help. When I start working with the School Finance Committee I need input from you. I would like you to disseminate the information that I am the only Indian serving on the Committee. I am not an expert on all reservation Indians, and how they put me on there, I don't know, but I want you to know I will do my best and serve on that Committee that your rights, the Indian children, will be protected. But I need your support and input. And what I have said this morning I hope you will share, and take back to your people.

I'm sorry not many people came out, but it is something that we cannot control. But there's also a meeting in Phoenix, like I said, where they are talking about us. I surely would like to see established an organization that will have a strong voice and an input into what is goiny on in the State Department of Education. We need an Indian advocate. I'd like to see someone saying just what the Indian people want, and I'd like to recommend the State Department of Education, through the help of State Legislature to foot the bill for Indian Education Division, not depending on the Federal Government fund as is the practice presently.

Should JOM, that is funded to the State Department of Education, go out today there would be no Division of Indian Education, because there is no money. Do you know that? This is why I'd like to see us start talking to the State Department of Education, to the State lawmakers, "Hey, we are part of you--we want you to listen to our plea, we want you to help us. But what we need if Legislators start leaning over us is to show them our education plan--this is what we have been talking about. They need information, that's what they need. What does it cost? What will be the result? There's your answer.

Ladies and gentlemen, I do not wish to continue on as I've taken up more time, but I am very dedicated, and I'm very prejudiced for my Indian people and education for all children. I will live with this because I am dedicated, very prejudiced for the children in school--all children. If they succeed I think the next generation will have a better place and sound future.

TRIBAL REACTION AND VIEWS ON INDIAN EDUCATION:

MODERATOR CLINTON PATTEA INTRODUCED <u>MR. PETE HOMER, SR., REPRESENTING THE COLORADO RIVER TRIBES</u>:

Good morning.

It appears that the group from Colorado River couldn't get through.

The education of our children at Colorado River has been under the State since 1936, and since then, the Council has more or less

given the responsibility to the State for educating all Indian children of the Colorado River Tribe. This is all I have to say. I wish some of my group were able to get through, but they haven't, so this is all I can present at this time.

Thank you.

MODERATOR CLINTON PATTEA INTRODUCED LESLIE GENE ANDREAS REPRESENTING SALT RIVER PIMA-MARICOPA TRIBE:

I'd like to thank the Arizona Commission for this fine Town Hall meeting. Although I missed most of the presentations yesterday, we on the Sale River Indian Reservation have many natural resources--we think our natural resources are the human resources that we have on the reservation. We think that education of those human resources are very important. I think other tribes, as well, believe this too. We do not have a comprehensive education plan, but I think that is in the future yet. We need to develop that ourselves.

I've seen the children on our reservation develop and grow. I look at them today and they are smarter than I am, they're brighter, they understand more than I do, and I think this is great. I hope they will go forward and carry the ball for our Tribe, because we depend on them a lot. We want to make sure that they have the very best in education.

We have a community college located on our reservation, it's only been in existence about 7 years now, and I've seen the enrollment of Tribal members go from about 10 the first year to 125 this year. It is not only young people, but it is elderly people as well. We shouldn't forget the elderly people, because they have wisdom and understanding. Even though the young are smarter and brighter, they need to rely on that wisdom and integrity, because this is what separates us from the dominant society.

I think education is very important. We need to be aware of all the things that might harm or take it away from us, or might make it less than what it is to us. We need to be aware of all the legislation that comes down from Washington or from the Arizona legislature. We need to keep our ears to the ground and our eyes open, so we can have the very best for our children and for our people on the reservation. This is one of the subjects, like I said I wished I would have made more of a presentation, but this is the way I feel and this is the way most of our people feel on the reservation. Education is very important.

I'd like to thank you for listening to me. Thank you.

MODERATOR CLINTON PATTEA INTRODUCED MR. EARL HAVATONE, CHAIRMAN, HUALAPAI TRIBE: SUMMARY AND RECOMMENDATIONS

I'm looking for Wesley Bonito to see if he is still around here, I just wanted to ask him one question--if the University of Coyote is NAU. Because, like the Commissioner said, the three of us attended that school some years ago. I wish at that time there were all of these Federal funds floating around so that we could have used them during our tenure at Northern Arizona University. We had only one source of college funds and that was the BIA Scholarship. However, at that time the BIA scholarship funds were at a minimum, and we didn't receive any, or I didn't. If you get to a point where you are real hungry, and you want something to eat to give you that nourishment for the next day or so--you know, crackers and Vienna sausage, they're real good, very tasty. Clinton graduated and I did later on.

In summation, I understand that the Conference has been very successful although a limited number of people participated here because of the weather and whatever. It took us a little time to get here the other day, but what we have heard so far, has been very informational and worthwhile insofar as Indian education is concerned. I would just like to say to the Chairman of the White Mountain Apache Tribe, that I always appreciate listening to him talk. Everytime I hear him speak, there is always something that he brings about in his speech that I carry back with me.

Mr. Lafe Altaha was the speaker that set the tone for the conference yesteday. Mr. Altaha is a White Mountain Apache Council member, and on behalf of the White Mountain Tribe welcomed the participants to the White Mountain Apache Reservation. In his speech, the keynote expressed was that this conference is really for the Indian children.

Mr. Terry Leonard reviewed the Johnson O'Malley and the Title IV programs, how the people are involved--the parental participation. He also brought out the problems and the issues that the people are confronted with at this time. He also provided some excellent materials so far as Johnson O'Malley and Title IV is concerned.

Johnson O'Malley is one of the oldest Indian Education Acts that we have legislatively. It goes way back to 1934, and is still a part of Indian education in 1978 and will continue in 1979, and hopefully forever. But in the long run, to the betterment of Indian education, this can only happen with Indian participation. The Title IV, similar to the Johnson O'Malley, has two parts, A and B: Part A - deals with the local education agency or the public school district. Part B - belongs to the Indian Tribes. I'm sure Terry reiterated this quite extensively. These are possibly the two well known acts that we have confronting us right now. As a matter of fact, we've had so many conferences that the poor, the rich, the educated, and the uneducated among the Indian tribes know what Johnson O'Malley and Title IV is all about. These acts have been brought to the attention of the people, as those of you who attend conferences take back the

information to your Tribes.

Dr. Kenneth Ross gave some excellent information on H.R. 15; gave a rundown on 15 Titles. H.R. 15 now known as Public Law 95-516. He talked about Title X, the authorized Impact Aid as well as Title XI, General Impact Aid, in relation to Indian Education. A - He mentioned the assistance to the local Indian education agencies. B - the BIA program, C - Transfer of Title IV under Title XI. If you will recall, 874 is not necessarily an Indian Education fund, but is Federal funding that supports Indian Education in liew of taxes, for example: on the reservation our houses are not taxed and as a result, these monies are provided by the Federal government to support school districts under 874. Each child receives, if they are eligible, 874 funds through public school districts. Very interestingly enough, if you will pick up the brochure that was provided for the participants here, you will note a list of school districts receiving 874: Peach Springs School District, which is on the Hualapai Reservation, received $119,000.

He also brought to our attention in Indian Education a brief history of where and how it started up to 1978 as well as what can be expected in the future as a result of the new legislation we are being confronted with--H.R. 15.

Mr. David Rich covered a variety of Attorney General Opinions, and how you may request and receive Opinions from the Attorney General's Office. He left a telephone number 271-3330 where you can contact Mike Miller of the Department of Education. And you would be surprised to learn that there are a number of Attorney General Opinions relating to Indian education. One of the Opinions that came out recently was "Who is eligible to drive a 15 passenger bus? Do you have to have a Class A Driver's license or whatever? Do you attend the bus driver's school?" That sort of thing is available.

During the banquet last night and in the after session discussions Senator Arthur Hubbard talked about the legislative process, how a bill goes through, and secondly, he talked about how the people here might be able to help in the decision making at the legislative level. Interestingly enough, he wrote me a letter about what's happening at the State Capitol. It's very interesting, and I think that is one reason why I'm attending this session to learn a little bit more about what is happening within the circles of Indian Education. He is asking for comments, particularly on financing, so if we can be of any help to strengthen Indian Education for our children, then I would say: "Let's go all out and help our Senators in their decision making".

In conclusion, the Commissioners and staff members appreciate the interest shown the speakers to brave the snow and the weather, to avail themselves and share with those present, important information concerning Indian Education.

Thank you.

Chairperson Leona Kakar thanked everyone for participating in the Indian Town Hall, and the meeting adjourned at 11:20 A.M.

Respectfully submitted,

CLINTON M. PATTEA
Executive Secretary

CMP:ras

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CONFERENCE PARTICIPANTS

COMMISSIONERS & STAFF:

Mrs. Lorna M. Kakar, Chairperson
Mr. Pete Homer, Sr., Vice Chairman
Mr. Wilfred Whatoname, Member
Mr. Clinton Pattea, Executive Secretary
Mr. Tony Machukay, Field Coordinator
Mrs. Diane Dankerl, Administrative Secretary
Mrs. Rose Ann Stellhorn, Secretary

GUEST SPEAKERS:

Mr. Terrance Leonard, Director, Division of Indian Education, State Department of Public Instruction
Dr. Kenneth G. Ross, Superintendent, Window Rock Elementary District #8
Mr. David Rich, Assistant Attorney General, State of Arizona
The Honorable Arthur J. Hubbard, Sr., Arizona State Senator
Mr. Wesley Bonito, President, Arizona Indian Education Association

TRIBAL LEADERS AND/OR REPRESENTATIVES:

Ms. Vera Santos, Vice Chairperson, Ak-Chin Tribe, Member, Arizona Indian Education Association, Maricopa
Mr. Dwight Lomayesva, Sr., Member, Colorado River Tribal Council, Member, Phoenix Area Inter-Tribal School Board, Parker
Mr. Earl Havatone, Chairman, Hualapai Tribal Council (also Alternate - Phoenix Area Inter-Tribal School Board) Peach Springs
Ms. Linda Havatone, Johnson O'Malley Program, Hualapai Tribe, Peach Springs
Mr. James Havatone, Hualapai Tribe, Kingman
Ms. Carrie Bender, Council Member, Hualapai Tribe, Member, Phoenix Area Inter-Tribal School Board, Peach Springs
Ms. Bessie Gonzales, Johnson O'Malley Program, Navajo Tribe, Window Rock
Mr. Leslie Cene Andreas, Council Member, Salt River Pima-Maricopa Indian Community, Scottsdale
Mr. Craig Thomas, Member, Arizona Indian Education Association, Salt River Pima-Maricopa Indian Community, Scottsdale
Mr. Ronnie Lupe, Chairman, White Mountain Apache Tribe, Whiteriver
Mr. Lafe Altaha, Council Member, White Mountain Apache Tribe, Whiteriver
Mr. Billy Kane, Council Member, White Mountain Apache Tribe, Member, Phoenix Area Inter-Tribal School Board, Whiteriver
Mr. Raymus Albert, Council Member, White Mountain Apache Tribe, Whiteriver
Ms. Elena Baha, White Mountain Apache Tribe, Whiteriver

GUESTS:

Mrs. Robert C. Blair, Phoenix
Mr. Robert C. Blair, Phoenix

GUESTS: (Continued)

Mr. Gerald Calnimptewa, Economic Development, Office of Economic Planning and Development, Phoenix
Mr. Hernal Dallas, Sr., Native Americans for Community Action, Member, Arizona Indian Education Association, Flagstaff
Mr. Jim Dankerl, Maricopa County, Phoenix
Mrs. Lois C. Fain, San Carlos
Mr. Robert M. Fain, Administrator, Rice School District #20, San Carlos
Mr. Pat Graham, Fort Defiance
Mrs. Donald W. Guyer, San Carlos
Mr. Donald W. Guyer, Superintendent, Rice School District #20, Member, Johnson O'Malley Schools
Mr. Joe Kakar, Ak-Chin Indian Community, Maricopa
Mr. Paul Klores, Secretary-Treasurer, Indian Enterprise Development Corporation, Phoenix
Ms. Phoebe Nez, Show Low
Mr. David J. Tsosie, Window Rock
Ms. Arminda L. Varela, Tucson
Mr. Casey R. Watchman, NAVAJO TIMES, Window Rock
Mr. David O. Wiley, Public Relations Director, Patton Agency, Phoenix
Mr. John Winstead, Fort Defiance